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UNIVERSITY OF CALIFORNIA  
AT LOS ANGELES







New - Superseded by  
1912 Ch.

# (Proposed) Charter OF THE City of Portland

**Drafted by the Charter Board  
of the City of Portland pursuant  
to an act of the Legislative As-  
sembly of the State of Oregon,  
entitled:**

"An act to provide for a Board to draft a bill for  
an act to incorporate the City of Portland, Mult-  
nomah County, Oregon, and to provide a Charter  
therefor, and to repeal all laws in conflict there-  
with, and for submitting said bill to the qualified  
electors of said city for approval, and for submit-  
ting said bill, if so approved to the Legislative  
Assembly of the State of Oregon for adoption or  
rejection as a whole, and for the payment of the  
expense of said Board by the City of Portland,  
and to declare an emergency." - Approved and filed  
*Feby. 27, 1901.*

**To be Voted on at Election in  
June, 1902**



# **Proposed Charter**

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SCHWAB BROS., PRINTING & LITHO. CO.



POR~~T~~LAND, OREGON

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MEMBERS  
OF  
CHARTER BOARD  
OF THE  
CITY OF PORTLAND

Fred V. Holman,	Dr. A. J. Giesy,
Tyler Woodward,	Dan J. Malarkey,
H. S. Rowe,	Isam White,
T. C. Devlin,	Wm. M. Ladd,
J. A. Strowbridge,	Paul Wessinger,
E. C. Bronaugh,	F. L. Zimmerman,
C. E. S. Wood,	John Montag,
P. L. Willis,	Sig. Frank,
J. N. Teal,	Sol. Hirsch,
John F. O'Shea,	F. E. Beach,
Dr. Harry Lane,	Harry Hogue,
R. L. Glisan,	J. T. Morgan,
Henry W. Fries,	T. D. Honeyman,
W. E. Robertson,	W. F. Burrell,
A. L. Mills,	Wm. Killingsworth,
H. W. Scott,	R. W. Montague,
Ned. E. Ayer	

On organizing, A. L. Mills was elected Chairman, and Sanderson Reed Clerk.



## **EXPLANATORY NOTE**

The Charter Board appointed by an Act of the Legislature of the State of Oregon, approved February 27, 1901, respectfully submits to the voters for approval a new Charter for the City of Portland.

In order that the citizens may understand the theory of municipal government that guided the Charter Board in its deliberations, it is necessary to state briefly the underlying principles of the new Charter and to present for comparison the most striking differences between the present Charter of the City of Portland and the proposed new Charter.

At its earlier sessions the Charter Board decided on certain well-defined principles that have been incorporated in most of the recent charters of other cities. Of these the most important are the following:

**193  
1st**  
**1. To separate municipal from state and national elections.**

The separation of municipal from state and federal elections is necessary to remove, if possible, municipal issues from the malignant influence of party politics. "It has been felt that city government must, to be efficient, be emancipated from the tyranny of national and state political parties." To what party candidates for city offices belong is not a material question in the consideration of the city's best interests, but when municipal elections occur at the same time as state or national elections it is impossible to prevent party lines from being drawn and party affiliations from influencing the choice of the voters.

**2. To separate strictly the legislative and executive powers.**

It is a fundamental principle now well established that all legislative or policy determining powers should be vested in the deliberative body, the Council, and that it should be shorn of all powers of administration; and conversely, that all executive duties should be imposed upon the administrative officers, the Mayor and his advisory boards, the Auditor, etc., and that no powers of legislation should be granted to the executive branch of the municipal government. The Council being the body that raises the revenue of the city and grants the supplies, has a powerful check on the executive, but it should not be allowed to execute its own legislation. By the proposed Charter not one dollar can be spent by the executive until the Council by ordinance makes an appropriation. This is practically the system of our national and state governments, as well as the municipal governments of France and Germany. A further important step is taken in the way of pro-

teeting the people from abuses of the law-making power, in the right given them to adopt by vote any ordinance for which a petition of 15 per cent. is filed and to pass on all questions of grant of franchise, etc., under consideration by the Council in like manner.

**3. To locate upon the Mayor in such manner that it cannot be evaded the responsibility for the executive administration of the City.**

The concentration of administrative power in the Mayor is now conceded to be the only proper method of obtaining efficient and responsible government for the city. As a necessary corollary to this proposition, the Mayor must be invested with the power not only of appointment, but of removal of the heads of all departments and of the members of all boards and commissions. Of course, this opens the door to much abuse of power and makes the mayoralty a plum greedily coveted by the corrupt politician; but, on the other hand, it places one man squarely before the people as responsible for the good or bad government of the city and in turn makes the people responsible for mismanagement if they suffer it to continue more than two years. Though the danger to the city's best interests from this form of government is great, it is infinitely less than from the system of government in practice in many cities. Where the functions of government are undertaken by independent commissions, deriving their authority from a legislature that has but a small interest in the community for which it legislates, invested with powers of legislation and administration unchecked by aught save their consciences, with the Mayor but an ornamental figurehead in the municipal system, the people are bound to be dissatisfied and the administration of the municipal government to be unsatisfactory, irresponsible and often tainted with fraud and corruption.

**4. To regulate the power to grant franchises and to provide for the acquirement by the city of Public Utilities.**

In the past, Portland, like all cities of the United States, has lightly valued its rights and privileges. The proposed Charter provides that in future no franchise shall be granted for more than 25 years nor without a fair compensation to the city. In addition, should the people so demand at an election held for that purpose and with careful limitations upon increase of indebtedness, the city may assume any public utility; i. e., to take over lighting plants, telephone systems, street railways and the like.

**5. To establish civil service rules.**

To prevent the city offices from being used as pawns in the state and national political game, the proposed Charter provides most stringent Civil Service Rules. That these rules may be abused or evaded by bad officials is certain, but even under a corrupt administration they will serve as a great deterrent to evil courses and under a good administration they will work for unquestioned good to the city.

6. **To have the city maintain the streets for a certain length of time after they have once been improved by the property owners.**

When once the streets are constructed on plans prepared by the engineer and approved by the Council, the city, responsible for their construction, should become responsible for their maintenance. As the general public in a large measure, and the individual property holder only in a small measure, get the benefit of the improvement, so in a large measure the general public should pay for the maintenance of the street. Scarcely a city in the United States but provides in some manner for the maintenance of its improved streets by the city and the proposed Charter follows this practice.

7. **So to protect the funds of the city that they may not be lost or stolen.**

When the United States deposits money in banks it requires government bonds as security, and the funds of the city should be guarded no less jealously. The proposed Charter provides that where city funds are deposited in a bank, security (other than personal bonds) to double the amount of the deposit must be furnished by the bank, and that all interest paid by the depositary on these funds shall be paid to the city. And it further provides that the Treasurer shall give bonds of a surety company for the faithful performance of his duties. The bitter experience of the county in 1893 has shown the worthlessness of personal bonds.

To bring more clearly before the minds of the voters the main points of difference between the present Charter and the proposed Charter, there is appended a condensed statement of many of the provisions of the two Charters.

**PRESENT CHARTER.**

**Elections.**

Held in the same year and at the same time as general state elections. Sections 11 to 21.

**PROPOSED CHARTER.**

**Elections.**

Held in odd years when no state elections take place. The first municipal election to be held in 1905. Officials elected in 1902 to hold office till July 1, 1905. Sections 18 to 25.

**Annexation of Territory.**

No provisions.

**Annexation of Territory.**

Council by two-thirds vote may pass a resolution in favor of submitting to vote; if majority of the people in territory to be annexed vote in favor of annexation, territory is to be annexed to Portland. Sections 13 to 17.

## PRESENT CHARTER

**Council.**

Eleven Ward Councilmen, seven from west side of river, four from east side. Hold office two years. Legislative functions divided with commissions and Board of Public Works. Sections 4 to 6, 25 to 35, 223, 232, 233.

**Franchises.**

No restrictions on Council's powers to grant any kind of a franchise for any length of time.

**Public Utilities.**

No provisions for acquirement by vote of people, but Water Committee has authority to construct or purchase water or light plant. Section 195.

**Civil Service.**

Limited provisions for Police and Fire Departments. Other departments at option of Mayor. None elsewhere. Optional and disregarded. Sections 37, 100 and 101.

**Streets.**

Council may initiate street improvements; 50 per cent remonstrance required to stop improvement. Abutting property to keep street in repair after once improved. Amount of levy for street repair fund,  $\frac{1}{4}$  of a mill; but Council may transfer from general fund. Sections 107 to 161; sec. 32, sub. 1.

## PROPOSED CHARTER

**Council.**

Ten Ward Councilmen; six from west side of river; four from east side and five Councilmen-at-large, to hold office four years, except that those elected in 1905 are divided as nearly as possible by lot into two classes, retiring respectively in two and four years. At all elections after 1905 Councilmen are elected for four years. All legislative power in Council. Sections 42 to 74. Rights of initiative by voters. Section 53.

**Franchises.**

Council cannot grant a franchise for more than 25 years, nor without fair compensation to the city. Before its final passage, an ordinance granting a franchise must be published at the expense of the applicant in the city official newspaper, and must receive the affirmative vote of two-thirds of Council to become valid. Sections 93 to 112.

**Public Utilities.**

Elaborate provisions for acquirement of any public utility by the city on a vote of the people, but no bonded indebtedness can be created therefor, unless by a two-thirds vote of the people, and then not in excess of 7 per cent of the assessed valuation of the city. Sections 76 to 92.

**Civil Service.**

Stringent provisions applying to almost all officials and employees of the city. Sections 306 to 327.

**Streets.**

Council may initiate street improvement; 66 2-3 per cent remonstrance required to stop improvement. Council to keep street in repair for definite period, to be stated in ordinance, after once improved. Council the judge of kind of street improvement. Amount of levy for street repair fund  $\frac{3}{4}$  of a mill, and all revenues derived from licensing vehicles to go to street repair fund. Council may transfer from general fund. Secs. 114, 115, 116, 346 to 418.

**PRESENT CHARTER****Limit of Tax Levy.**

Not to exceed 8 mills for all purposes, viz.:

Not to exceed—

$1\frac{1}{2}$  mills for street lighting.

2 mills for Fire Department.

$1\frac{3}{4}$  mills for Police Department.

$2\frac{1}{2}$  mills for interest on bonded indebtedness.

$\frac{1}{4}$  mill for street repair.

Section 32, subdivision 1.

**Provisions for Funding Outstanding Bonds.**

None.

**Lighting Plant.**

Water Committee empowered to construct or purchase plant. Section 195.

**Water.**

Water Committee of 19 named by the Legislature; has power to fix rates, extend system, buy real estate and other plants and to issue bonds. Sections 195 to 216.

**Police Commission.**

Commission of three; terms expire 1902, 1904, 1906; not removable by Mayor; independent control except that Council makes appropriation for support of department. Section 68.

**Fire Commission.**

Like Police Commission.

**PROPOSED CHARTER****Limit of Tax Levy.**

Not to exceed  $7\frac{1}{2}$  mills for all purposes, exclusive of the tax necessary to meet the interest on the bonded indebtedness, viz.:

Not to exceed—

$1\frac{1}{2}$  mills for street lighting.

$2\frac{1}{4}$  mills for Fire Department.

1 4-5 mills for Police Department.

$\frac{3}{4}$  mill for street repair fund.

$\frac{1}{5}$  mill for free library.

$\frac{1}{2}$  mill for parks.

$\frac{1}{2}$  mill for retiring bonded indebtedness.

Sections 114 to 116.

**Provisions for Funding Outstanding Bonds.**

Four per cent bonds can be issued in no greater amount than at present. Sold at not less than par to highest bidder at public sale after advertisement. Section 118.

**Lighting Plant.**

Council may authorize Executive Board to construct or purchase plant after submitting the question to a vote of the people. Sections 206 to 215.

**Water.**

Board of four appointed by the Mayor, who is chairman; duties purely executive. Council, on recommendation of board, fixes rates, authorizes expenditures for extension of system, purchase of plant or real estate. Sections 222 to 237.

**Police Commission.**

Abolished. Duties given to Executive Board. Sections 179 to 198.

**Fire Commission.**

Abolished. Duties given to Executive Board. Sections 167 to 178.

**PRESENT CHARTER****Park Commission.**

None in charter. Separate act creates Park Board. Given right to levy tax  $\frac{1}{2}$  mill.

**Board of Public Works.**

City Engineer and five members appointed by the Mayor for five years. Has care of streets, lighting and public buildings, letting of contracts for some departments and of passing on franchises. Sections 171 to 180.

**Health Board.**

None.

**Free Library.**

No provision in charter. Act of 1901 allows Council to appropriate one-fifth mill for support.

**Executive Board.**

None.

**Protection to Labor.**

None.

**Mayor.**

Two-year term. Appoints one Police Commissioner, one Fire Commissioner and two members of the Board of Public Works. He is

**PROPOSED CHARTER****Park Board.**

Board of four with Mayor as chairman; duties executive. Council may levy  $\frac{1}{2}$  mill for park purposes. Sections 259 to 267.

**Board of Public Works.**

Abolished; duties given to Executive Board.

**Health Board.**

Three certificated physicians to be appointed by the Mayor, who is chairman of the board. Sections 238 to 246.

**Free Library.**

Provision for a board of six, to be appointed by the Mayor. Council may appropriate one-fifth of a mill for support. Sections 247 to 258.

**Executive Board.**

Mayor chairman. Ten members appointed and removable by Mayor. The board has no legislative functions, but acts as board of advisers to Mayor in administration of executive duties. Has charge of Police and Fire Departments and executive work of former Board of Public Works. Also harbor and pound. Purchases all supplies on public bids for all departments of city. Sections 160 to 221.

**Protection to Labor.**

Eight-hour law for all common laborers. No one to be employed as a laborer who is not a citizen of the United States or who has not declared his intention to become such. Minimum wage to be \$2 per day. Section 163.

**Mayor.**

Two-year term. Appoints and can remove all members of boards, and becomes the responsible head of the city. Presides over the

**PRESENT CHARTER**

MAYOR—Concluded

not responsible for the acts of, and has no authority over the Police or Fire Commissioners, Board of Public Works or Water Committee. He appoints Superintendent of Streets, Harbor Master and Health Officer. Has little authority over the executive administration of the city. Sections 36 to 43.

**Treasurer.**

Elected two-year term. Deposits city funds where he pleases. Personal bond permitted. Sections 43, 44, 45.

**PROPOSED CHARTER**

MAYOR Concluded

Council and is chairman of all boards and commissions. Sections 143 to 159.

**Treasurer.**

Elected two-year term. Deposits city funds with banks approved by Council that furnish security (other than personal bonds) to double the amount of deposit. Gives bond of security company for \$100,000. Sections 228 to 301, inclusive.



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# A BILL FOR AN ACT

To incorporate the City of Portland, Multnomah County, State of Oregon, and to provide a Charter therefor and to repeal all Acts or parts of Acts in conflict therewith.

*Be it enacted by the Legislative Assembly of the State of Oregon:*

## CHAPTER I. Organization and Boundaries.

**ARTICLE 1. Corporate Powers, Rights and Liabilities.**

**ARTICLE 2. Government.**

**ARTICLE 3. Boundaries.**

**ARTICLE 4. Annexation of Territory.**

## ARTICLE I. Corporate Powers, Rights and Liabilities.

**Section 1.** This Act is hereinafter referred to as the Charter.

### **Existence of the City of Portland continued—Corporate Powers.**

**Section 2.** The municipal corporation now existing and known as The City of Portland shall remain and continue a body politic and corporate by the name of The City of Portland and by that name shall have perpetual succession and may sue and be sued, plead and be impleaded in all courts of justice and in all actions, suits or proceedings whatever; may have and use a common seal, and may alter the same at pleasure; may purchase, or acquire by the exercise of the right of eminent domain, receive and hold property, both real and personal, within or without said city for municipal purposes, and shall have the right of possession and control of all public parks and levees, buildings and property and of all tracts of land belonging to said city

and other property which has been or may be hereafter dedicated or in any manner whatsoever obtained for public purposes of said city, and may lease, sell or dispose of the same for the benefit of the city; may receive bequests, gifts and donations of all kinds of property in fee simple, in trust or otherwise, for charitable and other purposes, and may do all acts necessary to carry out the purposes of said gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust, or absolutely, in case such gift, bequest or trust be unconditional.

#### Grant of general governmental powers.

Section 3. The City of Portland shall be invested within its limits with authority to perform all public services and with all governmental powers except such as are expressly conferred by law upon other public corporations and subject to the limitations prescribed by the constitution and laws of the state, except as hereinafter provided.

#### Property Rights of the City.

Section 4. The City of Portland shall continue, under this Charter, to have, hold and enjoy all property, rights of property and rights of action of every nature and description of the municipality now existing and known as The City of Portland, and is hereby declared to be the successor of the same.

#### Suits, Actions and Proceedings.

Section 5. Suits, actions and proceedings may be brought in the name of The City of Portland for the recovery of any property, money or thing belonging thereto, in law or in equity, or dedicated to public use therein, or for the enforcement of any rights of, or contracts with, said city, whether made or arising or accruing before or after the adoption of this Charter. All existing suits, actions and proceedings in the courts or elsewhere, to which said city is a party, shall continue to be carried on by or against the said city.

#### Contracts must be authorized by ordinance and be in writing.

Section 6. The City of Portland is not bound by any contract or in any way liable thereon, unless the same is authorized by a city ordinance and made in writing, and signed by the Auditor, Executive Board, or some other board, body, persons or person in behalf of the city. But an ordinance may authorize any board, officer or agent of the city, designating such board, body, officer or agent, to bind the city without a contract in writing for the payment of any sum of money not exceeding one hundred dollars.

#### Liability under previous contracts.

Section 7. All contracts of every description heretofore duly and legally made and entered into by the said City of Portland shall re-

main valid and be binding upon this municipality to the extent only that they are now valid and binding upon said City of Portland.

**No liability for defective condition of sidewalks, etc.**

Section 8. No recourse shall be had against the city for damage or loss to person or property suffered or sustained by reason of the defective condition of any sidewalk, street, avenue, lane, alley, court or place, or by reason of the defective condition of any sewer, or by reason of any defective drainage, whether any of said defects originally existed, or whether they were occasioned by construction, excavation or embankment; nor shall there be any recourse against the city for want of repair of any sidewalk, street, avenue, lane, alley, court or place, or by want of repair of any sewer; nor shall there be any recourse against the city for damage to person or property suffered or sustained by reason of accident on sidewalk, street, avenue, lane, alley, court or place, or by falling from any embankment thereon or into any excavation therein; but in such case the person or persons on whom the law may have imposed the obligation to repair such defect in the sidewalk, street or public highway, or in the sewer, and also the officer or officers through whose official negligence such defect remains unrepairs shall be jointly and severally liable to the party injured for the damage sustained.

**Time of presentation of claims for damages—actions thereon.**

Section 9. Every claim for damages against the city must be presented to the council and filed with the Auditor within six months from the taking effect of this Charter or within six months after the time when such claim for damages accrues; otherwise there shall be no recovery on any such claim. No ordinance shall be passed allowing any such claim, or any part thereof, or appropriating money or other property to pay or satisfy the same, or any part thereof, until such claim has been referred to the proper department, nor until such department has made its report to the council thereon pursuant to such reference, unless judgment has been rendered on such claim. No action shall be maintained against the city for any claim for damages until the same has been presented to the council and filed with the Auditor as above set out and sixty days have elapsed after such presentation.

**ARTICLE 11.**

**Government.**

**Power and authority—where vested.**

Section 10. The power and authority given to the municipal corporation of The City of Portland is vested in a Mayor, Council and Executive Board and such other boards, bodies and officers as are provided by this Charter and their successors in office, to be exercised in the manner hereinafter prescribed.

**Officers of the City—elective.**

Section 11. There shall be elected as hereinafter provided a Mayor, Treasurer, Municipal Judge, City Attorney, Auditor and fifteen Councilmen, who shall be officers of The City of Portland.

**ARTICLE III.****Boundaries.**

Section 12. The boundaries of the City of Portland are as follows: Commencing at the southeast corner of the City of Sellwood as it existed in the year 1890 and running thence north along the east line of said City of Sellwood to the south line of section 23, township 1 south of range 1 east of the Willamette meridian; thence east to the southwest corner of section 24 in said township and range and thence north along the west line of section 24 aforesaid to the northwest corner of said section 24; thence east one mile to the northeast corner of said section 24; thence north along the east line of sections 13, 12, 1 in township 1 south of range 1 east; 36, 25, 24 and 13 in township 1 north of range 1 east of the Willamette meridian, to a point 150 feet north of the north line of the county road known as the Columbia Slough Road; thence northwesterly parallel with and 150 feet northerly from said north line of said county road to a point 430 feet west of the west line of the Wesley Van Schuyver donation land claim; thence south parallel with said line to the west line of McKenna avenue, or a northerly extension thereof; thence south and southwesterly along the west line of McKenna avenue and an extension thereof to the center of the main channel of the Willamette river; thence southerly, following the center of the main channel of said river and the center of the channel thereof west of Swan island to the west line of section 20, township 1 north of range 1 east; thence south along the east line of sections 19, 30 and 31 to the southeast corner of said section 31 of township 1 north of range 1 east; thence east one-half mile; thence south one mile; thence east one-half mile; thence south one mile; thence east one-half mile; thence south two miles to the south line of section 21, township 1 south, range 1 east; thence east to the center of the main channel of the Willamette river; thence southerly, following the center of the main channel of said river to a point in a westerly prolongation of the south line of said City of Sellwood; thence easterly along the south line of said City of Sellwood to the place of beginning.

**ARTICLE IV.****Annexation of Territory.****Power to annex territory.**

Section 13. The City of Portland may annex additional territory contiguous to and adjoining the limits of said city in the following manner, and such territory and the inhabitants thereof when so annexed shall become a part of said city and subject to the jurisdiction thereof.

**Petition to Council for annexation.**

Section 14. Whenever a petition shall be filed in the office of the Auditor of said city describing any such territory and defining the boundaries thereof, signed by the qualified voters of such territory in number equal to fifteen (15) per cent. of the qualified voters of such territory voting at the last preceding general election, expressing the desire of said petitioners for the annexation of such territory, the council of said city shall consider and determine whether the annexation of such territory, or any part thereof, shall be submitted to the qualified voters thereof.

**Council may submit question to vote.**

Section 15. The council may by a two-thirds vote thereof pass a resolution providing for the submission of the question of the annexation of such territory, or any part thereof, either alone or together with any other territory designated in said resolution, to the qualified voters residing in the territory so designated at the next general election held therein; provided, such resolution shall be passed at least thirty days before said general election. Whenever the territory so to be annexed shall include a part but not the whole of any voting precinct, the County Clerk of Multnomah County shall furnish a sufficient number of ballots to supply the voters of such precinct who reside within the territory so to be annexed, upon which shall be printed the question of the annexation of such territory, and shall supply for the voters of such precinct who do not reside within said territory ballots upon which such question shall not appear.

It shall be the duty of the Auditor to furnish previous to the time of the election to the judges of election of each of such precincts a plat and description of the territory so to be annexed showing the part thereof within the limits of such precinct. Said judges shall ascertain the residence of each voter applying for a ballot at such election and shall furnish the ballot having printed thereon the question of the annexation of such territory to voters residing within such territory and to none others.

**Property rights, liabilities affected by annexation.**

Section 16. In case of a majority of the qualified voters residing in such territory and voting on said question vote in favor of such annexation, such territory shall on the first day in July next following said election be and become a part of the City of Portland. All rights and property, both real and personal, then vested in or belonging to any therein existing local municipal corporation or corporations, excepting school districts, or in or to the public of said territory, including all parks, public grounds, buildings and improvements, and all rights or property in public streets or highways (including within the meaning of the word streets any way mentioned in any definition or explanation of said word contained in this Charter) and also including all other

rights and property vested in or belonging to said corporation or in or to the public of said territory, of every nature whatever, whether of the same or similar general nature as those above expressly mentioned or differing therefrom in kind, nature, degree or otherwise, shall thereupon become and be rights and property of the City of Portland, but all county roads lying within the limits of such annexed territory which have not been laid out or accepted as streets, such as above referred to, by such local municipal corporation or corporations shall remain and be county roads until they are laid out or accepted as such streets by said city, and be under the jurisdiction of the County Court of Multnomah County, Oregon, and shall be worked, maintained and improved as county roads outside the limits of said city are worked, maintained and improved. And all debts, liabilities and obligations of such local municipal corporation or corporations shall thereupon become and be liabilities of the City of Portland, and the City of Portland shall thereupon assume, become liable for, pay, satisfy or discharge all the debts, liabilities and obligations of such local municipal corporation or corporations, and the inhabitants of such annexed territory shall become subject in all respects to the jurisdiction of the authorities of said city, and the jurisdiction of any public authority exercised theretofore in such annexed territory shall, so far as it is in conflict with the corporate authority of said city thereupon cease and determine.

#### Council to amend boundaries.

Section 17. The council shall thereupon, by resolution, so alter and amend section twelve (12) of this Charter, and the boundaries of said city as therein prescribed and set out as to include such annexed territory within the boundaries of said city and said section twelve (12) as so amended shall be a part of this Charter and be in full force and effect.

### CHAPTER II.

#### Election of Officers.

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##### ARTICLE 1. Elections.

##### ARTICLE 2. Vacancies.

##### ARTICLE 3. Holding Over of Incumbents.

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##### ARTICLE I.

##### Elections.

###### First election under this Charter—Terms of office.

Section 18. A general municipal election shall be held in the city of Portland on the first Monday in June, 1905, and on the first Monday in June biennially thereafter. All officers elected under this Charter shall hold office for the term of two years, except Councilmen, who shall hold office for the term of four years, and in every case officers shall

hold their respective offices until their successors are elected and have qualified, but the Councilmen chosen at the first election shall be divided as equally as may be, as hereinafter provided, into two classes, of which the first class shall hold office for two years and the second class for four years.

**Term of office of incumbents when this Charter takes effect.**

Section 19. Every person elected to office at the general city election in the City of Portland in June, 1902, under the provisions of an act entitled "An act to incorporate the City of Portland and to provide a Charter therefor and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State October 17, 1898, shall continue to hold the office to which he is so elected until the first day in July next following the first city election held after the taking effect of this Charter and until his successor is elected and has qualified as is prescribed in this Charter, except as in this Charter otherwise provided.

**Elections—Laws governing.**

Section 20. All the laws of this state regulating and governing general elections and primary elections and proceedings and matters incidental or relating thereto or connected therewith shall apply to and govern elections under this Charter, except that all the powers conferred and functions devolved by said laws upon the County Court are hereby conferred and devolved upon the Council, and all powers conferred and functions devolved upon the County Clerk are hereby conferred and devolved upon the Auditor, and all powers conferred and functions devolved upon the Sheriff are hereby conferred and devolved upon the Chief of Police, except as herein otherwise provided, and except that the officers to be elected at city elections shall be as elsewhere declared in this Charter; that the terms county officers, electors of the county and the like, where found in said election laws, shall be held to include city officers, electors of the city and the like; that the expense of city elections and all proceedings connected therewith shall be provided for and paid by the Council; that the Auditor shall prepare all tally sheets, poll books and other matters and things required by said laws to be prepared and furnished by the Secretary of State; that whenever the canvass of votes for any city office shall show that two candidates have received an equal and the highest number of votes for such office, the Auditor shall proceed to determine by lot which of said persons shall be declared duly elected, in the manner provided by section 2539, Hill's Annotated Laws of Oregon, for the action of County Clerks.

**Same: judges and clerks—how chosen.**

Section 21. Said laws regulating and governing general elections shall be deemed to include the act of the Legislative Assembly of the State of Oregon approved February 13, 1891, fixing the time for holding

elections; regulating the manner of conducting elections; prescribing the manner of making nominations of candidates; providing for the printing and distribution of ballots by public officers at public expense, etc., commonly known as the Australian Ballot Law, found printed in the official laws of Oregon, 1891, at pages 8 to 37, and also an act amendatory thereof, approved February 23, 1895, found in the official laws of Oregon of 1895 on pages 68 to 76, and also the act amendatory thereof filed in the office of the Secretary of State February 28, 1901, and found printed in the official laws of Oregon for the year 1901 on pages 349 to 371; and shall also include the act known as the Primary Law and entitled "An act to provide for primary elections in cities having a population of more than 10,000 inhabitants and providing the manner of conducting the same, and to prevent frauds and punish crimes at such elections and to apply the principles of the Australian Ballot Law and the Registry Law to primary elections held in such cities," filed in the office of the Secretary of State February 28, 1901, and shall also include section 2538, Hill's Annotated Laws of Oregon, as any of said laws are now and hereafter amended. But the Council shall not create new election precincts, but shall adopt the precinct boundaries last previously established by the County Court.

Judges and clerks of election to serve at city elections and primaries shall be chosen by the Council at its first meeting in January of each year in which a city election is to be held. Objections, remonstrances and suggestions relating to such judges and clerks shall be heard by the Council at its second regular meeting in February.

#### **Special Elections—How called.**

Section 22. A special election shall take place not less than 30 days after the passage of an ordinance calling the same. Such ordinance shall set forth the purposes for which such special election may be called and the proposition to be voted on and the day on which such election shall be held.

#### **Registration of voters.**

Section 23. The provisions of an act entitled "An act to provide for the registration of electors, regulating the manner of conducting elections, providing for the prevention of and punishment for frauds affecting the suffrage and to prevent illegal voting," approved February 17, 1899, shall apply to elections held under this Charter, except as herein otherwise provided. No person who has registered for the preceding county election and has not changed his residence need register again for a city election. The County Clerk shall keep open the registration books, lists, etc., for a period of thirty days immediately before the 15th day of April next preceding the city election and during such time shall register all persons who since the registration books were last closed have become eligible to vote at such elections, or who, being entitled to vote, have failed to register, and shall enter changes of res-

idences occurring since the last registration of all persons who shall apply therefor. Such clerk shall send to the several precincts the precinct register thus corrected, as provided by said act, and the same shall be used by the judges and clerks at such election as provided in said act.

#### **Expense of registration paid by City.**

Section 24. The County Court of Multnomah County, Oregon, shall cause an itemized statement of the actual additional cost to said county caused in each year in which a general city election is held under this Charter by the opening, preparation and use of said registration lists and preparation of ballots as herein prescribed and by matters in connection therewith to be prepared and filed with the Auditor of the City of Portland. The Council shall appropriate the amount named in such statement or such other amount as it may determine to be such true actual additional cost, and the same shall be paid to said County of Multnomah in reimbursement of such cost.

#### **Dates of elections.**

Section 25. The dates fixed in said election laws are hereby changed as far as they relate to said city elections, and the dates prescribed in this Charter shall be substituted for and take the place of the dates set forth in said election laws.

#### **Notice of election to be published.**

Section 26. The Auditor, under the direction of the Council, shall give ten days' notice by publication in the city official newspaper of each general city election, the officers to be elected at the same and the place or places in each ward designated for holding the election therein.

#### **Qualifications of voters.**

Section 27. No person is qualified to vote at an election held under this act who has not been a resident of the city for six months and of the ward or precinct in which he offers to vote for thirty days next preceding such election and who does not possess the qualifications of a legal voter of the State of Oregon.

#### **Elective officers.**

Section 28. The Mayor, Auditor, City Attorney, Treasurer, Municipal Judge and Councilmen at Large shall be elected by the qualified voters of the city and other Councilmen by the qualified voters of the ward from which they are chosen at the general city election next preceding the expiration of the term of the then incumbent of the office.

#### **Qualifications of officers.**

Section 29. No person is eligible to any office of the city, except as otherwise herein provided, who at the time of his election or appointment is not a citizen of the United States and a resident and voter

of the City of Portland and entitled to the privileges of an elector, according to the constitution and laws of the State of Oregon, and who has not resided in the City of Portland for three years next preceding his election or appointment, or who has not resided for three years next preceding his election or appointment within the territory embraced within the city at the time of such election.

#### **Additional qualification of councilmen.**

Section 30. In addition to the qualifications elsewhere prescribed in this Charter, a person to be eligible to the office of Councilman from a particular ward must be a resident of the ward from which he is elected for a period of one year prior to his election, or must have been a resident for one year prior to his election of the territory embraced in such ward at the time of such election.

#### **Canvass of votes.**

Section 31. On the fourth day after an election, or sooner if the returns from all the wards are in, the Auditor shall call to his assistance the County Clerk of the County of Multnomah, and a Justice of the Peace, resident in Portland, and they three shall then canvass the returns of the election.

#### **Statement of canvass to be filed.**

Section 32. A written statement of the canvass shall be made and signed by the canvassers, or a majority of them, and filed with the Auditor, within the time appointed to complete the canvass. Such writing must contain a statement of the whole number of the votes cast at such election, and the number given for any person for any office and the names of the persons elected, and to what office, and also the number of votes for or against any proposition submitted to the people.

#### **Certificate of Election.**

Section 33. Immediately after the completion of the canvass the Auditor must make and sign a certificate of election for each person determined by such canvass to be elected and deliver the same to him on demand.

#### **Certificate primary evidence—Contested elections of Mayor or Councilman.**

Section 34. A certificate of election is primary evidence of the facts therein stated, but the Council is the judge of the qualifications and election of Mayor and of its own members; and in case of a contest between two persons claiming to be elected thereto, must determine the same, subject, however, to the review of any court of competent jurisdiction.

**Contested elections of other officers.**

Section 35. A contested election for any office, other than that of Mayor or Councilman, must be determined according to the law of this state regulating proceedings in contested elections for county officers.

**Term of offices under this Charter—oath and undertaking.**

Section 36. The term of office of every person elected to office under this act shall begin on the first day of July next after the election and end on the last day of June, except as otherwise provided in this Charter, and before the beginning of his term of office such person must qualify therefor by taking and filing the oath of office and giving such official undertaking for the faithful performance of his duties as may be required, or he shall be deemed to have declined and the office shall be considered vacant.

**Form of official oath.**

Section 37. Every officer elected or appointed to office under this Charter before entering upon the duties of his office must take and file with the Auditor an oath of office, to the following effect: "I do solemnly swear (or affirm) that I will support the constitution of the United States and of the State of Oregon, and that I will to the best of my ability faithfully perform the duties of the office of \_\_\_\_\_ during my continuance therein, so help me God." If the officer affirm, instead of the last clause there must be added: "And this I promise under the pains and penalties of perjury."

**ARTICLE II.****Vacancies.****Offices—when vacant—how filled.**

Section 38. An office shall be deemed vacant upon the death or resignation of the incumbent, or upon such incumbent ceasing to possess the qualifications of an elector, or upon the failure of an officer elected to qualify. The offices of Mayor, Auditor, City Engineer, City Attorney, Treasurer and Municipal Judge shall be deemed vacant whenever the incumbent thereof shall be impeached or removed as herein provided, or shall be absent from the city for thirty days without leave of the Council, or shall not perform the duties of his office for a like period. The Council may grant a leave of absence to any such city officer for a period not exceeding sixty days. The office of councilman shall be deemed vacant whenever the incumbent thereof shall cease to be a resident of the ward which he represents or shall fail to attend three consecutive regular meetings of the Council, unless absent upon leave of the Council first obtained, or shall be removed from office; but a change of the boundaries of any ward shall not be deemed to chance the residence of any councilman so as to create or cause any vacancy in such office. A vacancy in any office caused by the failure of any

person elected to qualify therefor, as prescribed in this Charter, or made by or consequent upon the judgment of any court or consequent upon any failure to elect or qualify or in any of the cases specified in this Charter must be filled as follows:

(a) In the office of Councilman, by the appointment of the Council to continue until the first day of July after the next city election; but in the case of any vacancy in the office of any Councilman having more than two years to serve, his successor (to serve after the first day of July after the next city election) shall be elected at the next city election to serve the final two years of the term of office and until his successor is elected and has qualified.

(b) In the office of Mayor and Auditor by appointment by the Council, to continue until the first day of July after the next city election.

(c) In all other offices, excepting Mayor, Auditor and Councilmen, by appointment by the Mayor, for the unexpired term.

#### **Officer appointed or elected to fill unexpired term to qualify.**

Section 39. An officer appointed or elected to fill a vacancy must within five days from the date of such appointment or election qualify therefor as in the case of an officer elected for the full term of an office, or he shall be deemed to have declined and the office be considered vacant.

### **ARTICLE III.**

#### **Holding Over of Incumbents.**

#### **Terms of elective offices of incumbents when this Charter takes effect.**

Section 40. The incumbents of all elective offices of the City of Portland who shall be in office when this Charter takes effect shall continue to hold, under this Charter, their respective offices, until the first day of July, 1905, and until their respective successors shall have been elected and have qualified. The incumbents in the office of councilman for the first, second, third and fourth wards of the city, as created and defined in an act entitled "An Act to incorporate the City of Portland, and to provide a charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State October 17, 1898, shall hold their respective offices for the first, second, third and fourth wards of the city, as created and defined by this Charter until the first day of July, 1905: the incumbent in the office of councilman for the fifth ward of the city as created and defined in an act entitled "An act to incorporate the City of Portland, and to provide a charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of Secretary of State, October 17, 1898, shall hold his office and shall be a councilman at large as provided by this Charter until the first day of July, 1905: and

the incumbents of the office of the councilman of the sixth, seventh, eighth, ninth, tenth and eleventh wards of the city as created and defined in an act entitled "An act to incorporate the City of Portland and to provide a charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State October 17, 1898, shall hold their respective offices and shall represent respectively the fifth, sixth, seventh, eighth, ninth and tenth wards of the city as created and defined by this Charter, and no changes in ward boundaries as created and defined by this Charter, as the same may affect the residence of councilmen in the wards which they are to represent as herein set forth shall effect the qualifications of said councilmen.

**Offices heretofore filled by appointment to become vacant, except  
City Engineer.**

Section 41. Upon the taking effect of this Charter the terms of all officers who, by the provisions of an act entitled "An act to incorporate the City of Portland and to provide a Charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State October 17, 1898, are to be appointed by the Mayor, shall expire and the Mayor shall thereupon immediately proceed forthwith to appoint all officers whom he is authorized and directed by this Charter to appoint, except the City Engineer, who shall hold to the expiration of his term as herein provided.

**CHAPTER III.  
Legislative Department.**

**ARTICLE 1. Council; its Constitution and Procedure.**

**ARTICLE 2. Wards.**

**ARTICLE 3. Organization of Council.**

**ARTICLE 4. Powers of Council.**

**ARTICLE 5. Public Utilities and Franchises.**

**ARTICLE 6. Finance, Revenue and Taxation.**

**ARTICLE 1.**

Council; its Constitution and Procedure.

**Ward representation and councilmen at large.**

Section 42. Each ward herein established is entitled to elect one member of the Council, and in addition there shall be elected five Councilmen at Large from the entire city.

**Councilmen—how divided into classes.**

Section 43. At the first regular meeting of the Council after the

first election under this Charter the Councilmen at Large shall be divided, by the casting of lots, into two classes, one of three and one of two members, and the Ward Councilmen shall be divided by the casting of lots into two classes of five each. The seats of the Ward Councilmen of the first class and of the Councilmen at Large of the first class shall be vacated at the expiration of the second year from the commencement of their terms and those of the second class of each kind at the expiration of the fourth year from the commencement of their terms. At every election after the first there shall be chosen Councilmen to succeed those whose terms next thereafter expire, so that half of the Council, as nearly as may be, shall be elected every two years.

#### **Compensation of Councilmen.**

Section 44. Each member of the Council by way of compensation shall be allowed five dollars for each Council meeting and three dollars for each committee meeting, but such compensation shall be allowed only for meetings actually attended by such member and shall not exceed twenty-five dollars to any one member in any one calendar month.

#### **Council to act by ordinance.**

Section 45. The power and authority given to the Council by this Charter can be exercised only by ordinance unless herein otherwise expressly provided, and a majority of the Council, except as herein otherwise expressly provided, may pass any ordinance or resolution not repugnant to the laws of the United States or of this state necessary or convenient for carrying into effect any power or authority granted in this Charter.

#### **Style of ordinances.**

Section 46. The style of every ordinance shall be "The City of Portland does ordain as follows":

#### **Council empowered to investigate boards, employees, officers, etc.**

Section 47. The Council, or a committee of the Council duly authorized by it, may investigate any board or department of the city government, and the official acts and conduct of any city officer, employee or agent; and for the purpose of ascertaining facts in connection with such investigation, shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as it may deem necessary, and to compel the production of books, documents and other evidence. Willful false swearing in such investigations and examinations shall be perjury and punishable as such, under the laws of the State of Oregon.

#### **Payment of money—how made.**

Section 48. No money shall be expended or payment made by the city excepting from special assessment funds, unless in pursuance of a

specific appropriation made for that purpose by ordinance and an ordinance making an appropriation shall not contain a provision on any other subject. No resolution or contract requiring the payment of money nor any ordinance shall go into force or be of any effect until approved by the Mayor, except as provided in Sections 50 and 51.

**Proceeding on ordinance or resolution requiring payment of money.**

Section 49. Upon the passage of any resolution requiring the payment of money or of any ordinance, the enrolled copy thereof attested by the Auditor shall be submitted to the Mayor by the Auditor within five days from the passage of the same by the Council, and if the Mayor approve the same he shall write upon it "Approved," with the date thereof, and sign it, with the name of his office, and thereupon, unless otherwise provided therein, such ordinance shall become a law and be of force and effect and the resolution made effectual.

**Such resolution or ordinance to be in effect unless returned by the Mayor with reasons for disapproval.**

Section 50. If the Mayor do not approve such resolution or an ordinance so submitted, he must, within ten days from the receipt thereof, return the same to the Auditor with his reasons for not approving it, and if the Mayor do not so return it, such ordinance shall become a law as if he had approved it.

**Such resolution or ordinance may be passed over Mayor's disapproval by two-third vote.**

Section 51. Upon the first regular meeting of the Council after the return of such resolution, or an ordinance, from the Mayor, not approved, the Auditor shall deliver the same to the Council, with the message of the Mayor, which must be read, when such resolution or ordinance, being put upon its passage again, if two-thirds of all the members constituting the Council, as then provided by law, vote in the affirmative, it shall become a law without the approval of the Mayor, and not otherwise. But if no vote is taken at such meeting on the passage of such resolution or ordinance it shall be deemed to have failed to become a law because not approved by the Mayor.

**Existing ordinances continued.**

Section 52. All existing ordinances of the City of Portland in force when this Charter takes effect and not inconsistent herewith, shall be and remain in full force until repealed or until they expire by limitation.

**Petition for initiative of ordinance.**

Section 53. Whenever there shall be presented to the Council a petition signed by a number of voters equal to fifteen percentum of the votes cast at the last preceding city election, asking that an ordinance, to be set forth in such petition, be submitted to a vote of the electors

of the city, the Council must submit such proposed ordinance to the vote of the electors at the next city election; but such ordinance shall not be valid unless within the powers herein granted to the Council.

**Same—form of petition.**

Section 54. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to be thereto subscribed.

**Same—form of ballots.**

Section 55. The tickets used in such election shall contain the words "For the ordinance" (stating the nature of the proposed ordinance) and "Against the ordinance" (stating the nature of the proposed ordinance).

**Mayor to make proclamation, if ordinance adopted—Council may submit amendments.**

Section 56. If a majority of the votes cast upon such ordinance shall be in favor of the adoption thereof, the Mayor shall, within thirty days from the time of such election, proclaim such fact; and upon such proclamation such ordinance shall have the same force and effect as an ordinance passed by the Council and approved by the Mayor, and the same shall not be repealed by the Council. But the Council may submit a proposition for the repeal of such ordinance, or for amendments thereto, for vote at any succeeding election; and should a majority of the votes thereon be cast in favor of such repeal or amendment at such election, such ordinance shall be repealed or amended accordingly.

**Official advertising to be let.**

Section 57. All contracts for official advertising shall be let annually by the Council to the lowest responsible bidder publishing a daily newspaper in the City of Portland and which has a bona fide circulation therein.

**Same—city official newspaper.**

Section 58. The paper to which the award of such advertising is made shall be known and designated as the "City official newspaper."

**Same.**

Section 59. If the city official newspaper ceases to be published, or if for any cause the contract be annulled, a new contract for the unexpired term of the original contract shall be let to the lowest responsible bidder publishing a daily newspaper as provided in this Charter, and until such new contract is let the Council shall designate a daily news-

paper in which all advertising shall be published, which newspaper shall be known and designated, for the time being, as the "City official newspaper."

**Same.**

Section 60. All advertising and publications provided for in this Charter must be made in the city official newspaper only.

**Terms "successive" and "consecutive" defined.**

Section 61. Any requirement of this Charter for any form of notice to be published in the city official newspaper for a stated number of successive or consecutive days shall be construed to mean publication of such notice in the stated number of consecutive issues of said newspaper, and publication of said notice in said stated number of consecutive issues of said newspaper shall be a full compliance with such requirements.

**Privileges of Councilmen in debate.**

Section 62. A member of the Council for words uttered in debate therein shall not be questioned in any other place.

ARTICLE II.

Wards.

**Number of wards and their boundaries.**

Section 63. For the purpose of municipal representation, the City of Portland is hereby divided into ten wards, designated and bounded as follows, to-wit:

Ward No. 1, all that portion of the city west of the main channel of the Willamette river and north of the center line of Pettygrove street, produced easterly to the Willamette river and westerly to its intersection with the center line of the Cornell road, and of the center line of said Cornell road from said intersection to the western boundary of the city. Swan Island is included in Ward No. 1.

Ward No. 2, all that portion of the city bounded on the east by the Willamette river; on the north by the south line of ward No. 1; on the west by the center line of Cornell road as formerly established from its intersection with the center line of Pettygrove street to its intersection with the center line of Everett street and on the south by the center line of Everett street.

Ward No. 3, all that portion of the city bounded on the north by ward No. 2 and by the center line of the Cornell road from its intersection with the center line of Pettygrove street to the western boundary of the city; on the east by the Willamette river; on the west by the western boundary line of the city; on the south by the center line of Washington street and the Barnes road, which is a continuation of said Washington street to the western boundary of the city.

Ward No. 4, all that portion of the city bounded on the north by Ward No. 3; on the east by the Willamette river; on the south and west by the center line of Jefferson street from the Willamette river to its intersection with the center line of the public road known as the Canyon Road; thence westerly along the center line of said Canyon Road to its intersection with the western boundary of the city; thence following the western boundary of the city northerly to its intersection with the south line of Ward No. 3.

Ward No. 5, all that portion of the city bounded on the north by Ward No. 4; on the east by the Willamette river; on the south and west by the center line of Caruthers street and an easterly extension thereof from the Willamette river to its intersection with the center line of the Patton county road and by the center line of the Patton county road from its intersection with the center line of Caruthers street to its intersection with the city boundary line and by the city boundary line from its said intersection with the center line of the Patton county road to its intersection with the south line of Ward No. 4.

Ward No. 6, all that portion of the city situated west of the Willamette river and south of ward No. 5.

Ward No. 7, all that portion of the city situated south of Hawthorne avenue and an easterly extension thereof to the eastern boundary of the city, and east of the main channel of the Willamette river. Ross Island is included in Ward No. 7.

Ward No. 8, all that part of the city bounded on the west by the Willamette river; on the south by ward No. 7; on the east by the eastern boundary of the city and on the north by the center line of East Glisan street from its intersection with the center line of the Sandy road to its western termination and a prolongation thereof westerly to the Willamette river, and by the center line of the Sandy road from its intersection with the center line of East Glisan street to an intersection with the center line of Halsey street produced easterly, and an easterly prolongation of the center line of Halsey street from its intersection with the center line of the Sandy road to the eastern boundary of the city.

Ward No. 9, all that part of the city bounded on the south by ward No. 8; on the west by the Willamette river; on the north by the center line of Fremont street and a westerly and easterly prolongation thereof, and on the east by the eastern boundary line of the city.

Ward No. 10, all that part of the city east of the main channel of the Willamette river and north of ward No. 9.

**Council may change ward boundaries.**

Section 64. The Council, by a two-thirds vote of its members, may change by ordinance the boundaries of any ward herein established and may add annexed territory to any ward or wards as established at the time of such annexation or as changed thereafter by the Council.

### ARTICLE III.

#### Organization of Council.

##### Council—time and place of meetings.

Section 65. The Council must provide for the time and place of its regular meetings, at any of which it may adjourn to the next succeeding regular meeting or to some specified time prior thereto, and it may be convened by the Mayor or a majority of the Council at any time upon not less than two days' notice by publication in the city official newspaper.

##### Same—quorum.

Section 66. A majority of the members of the Council shall constitute a quorum to do business, except as in this Charter otherwise provided, but a less number may meet and adjourn from time to time and may compel the attendance of absent members.

##### Same—rules and record—Meetings public.

Section 67. The Council may adopt rules for the government of its members and its proceedings. It must keep a journal of its proceedings, and upon the call of any two of its members must cause the yeas and nays to be taken and entered in its journal upon any question before it; but upon a question to adjourn the yeas and nays shall not be taken unless upon the call of four members. Its deliberations and proceedings and also those of any committee appointed by the Mayor or Council must be public.

##### Same—expulsion of members.

Section 68. The Council may punish any member for disorderly or improper conduct at any meeting, or for refusing or neglecting to attend any regular meeting without sufficient excuse therefor, and may expel a member by a two-thirds vote for sufficient cause.

##### Same—first meeting.

Section 69. On the first Wednesday in July next following any general city election there must be a regular meeting of the Council, and such meeting is appointed by this Charter and no notice thereof is necessary.

##### Same—majority defined—yeas and nays when required.

Section 70. A majority of the whole number constituting the Council is a majority of the Council or members thereof within the meaning of this Charter, and not otherwise, except as herein otherwise provided. The concurrence of a majority of a quorum is sufficient to determine any question or matter, except as otherwise prescribed in this Charter. The final passage of an ordinance shall require a majority of the members of the whole Council and a vote on the final passage of an ordinance

and on a resolution authorizing or directing the payment of money shall be by yeas and nays.

**President of Council—how chosen—his duties.**

Section 71. At the first regular meeting of the Council in July of each year, or as soon thereafter as practicable, the Council shall choose by ballot one of its members who shall be designated the President of the Council. In the absence of the Mayor from the city or in case of his inability to act from any cause, or in case of a vacancy in the office of Mayor, the President of the Council shall have and exercise the powers and perform all the duties of the Mayor, except as otherwise provided in this Charter.

**ARTICLE IV.**

**Powers of Council.**

**(a. General Corporate and Governmental Powers.)**

**Legislative powers confined to Council.**

Section 72. The Council shall have and exercise exclusively all legislative powers and authority of the City of Portland, and no legislative powers or authority, either express or implied, shall be exercised by any other person or persons, board or boards, other than the Council. The Council shall have full power and authority, except as herein otherwise provided, to exercise all powers conferred upon the city by this Charter and the constitution and laws of the State of Oregon.

**Subjects for legislation.**

Section 73. The Council has power and authority, subject to the provisions, limitations and restrictions in this Charter contained:

(1) To exercise within the limits of the City of Portland all the powers commonly known as the police power to the same extent as the State of Oregon has or could exercise said power within said limits.

(2) To make and enforce within the limits of the city all necessary water, local, police and sanitary laws and regulations.

(3) To provide for the punishment of a violation of any ordinance of the city by fine or imprisonment not exceeding five hundred dollars' fine or six months' imprisonment, or both, or by forfeiture as penalty; and for working any person sentenced to such imprisonment upon any public work or in any public place during the term thereof, and to provide for the punishment of any person sentenced to imprisonment who shall refuse to work when ordered.

(4) To provide for entering into contracts by the city for a period not exceeding two years, except as in this Charter otherwise provided.

(5) To accept or reject all property, real, personal or mixed, given, conveyed, devised or bequeathed to the city, and to provide for the execution of all trusts if accepted by the city.

(6) To purchase, or acquire by condemnation, such property, real and personal, as may be needed for public use.

(7) To provide for the purchase of property levied upon under execution in favor of the city, but the sum bid on such purchase shall not exceed the amount of the judgment and costs.

(8) To purchase, take and hold real or personal property when sold for a delinquent tax or assessment levied or imposed under the authority of the City of Portland, and to sell and convey the same. But the sum bid by the city on or for any piece or parcel of property, so sold for a delinquent tax or assessment, shall not exceed the amount of the tax, and the necessary costs and expenses on such piece or parcel of property.

(9) To provide for the sale at public auction, after advertising for not less than five days, of all personal property unfit or unnecessary for the use of the city.

(10) To provide for the lease of lands now or hereafter owned by the city, but all leases shall be made at public auction to the responsible bidder offering the highest monthly rent after publication of notice thereof for not less than ten days. No lease shall be authorized except by ordinance passed by the affirmative vote of two-thirds of the members of the Council and approved by the Mayor, and no lease shall be made for a longer period than five years, except as herein otherwise provided.

(11) To provide for the location and construction of any ditch, canal or pipe for the conduct of water, and any drain, sewer or culvert it may deem necessary or convenient, and for such purpose it shall have a right to enter upon any land between the termini of such ditch, canal or pipe or drain, sewer or culvert for the purpose of examining, locating and surveying the line of such ditch, canal, pipe, drain, sewer or culvert, doing no unnecessary damage thereby, and to appropriate so much of said land as may be necessary for the construction of said ditch, canal, sewer, pipe, drain or culvert in like manner as provided by the laws of this state for the appropriation of lands or right of way by corporations, and to appropriate and divert from its natural course or channel, for the purpose of drainage or flushing any drain, sewer or culvert, any spring or stream of water and compel the extension of gas, water and sewer connections from the main sewer or pipe to the curb line of the sidewalks of all public streets.

(12) To provide for the opening, laying out, establishing, altering, extending, vacating and closing or for establishing and changing the grades of streets, squares, parks, public places, and to provide for the improving and repairing of streets, squares, parks and public places or of any land over which any right of way has been obtained, or granted for any purpose of public travel by means of any kind of work, improvement or repair mentioned in this Charter, subject to the provis-

ions and limitations contained in this Charter, and in the Constitution of the State of Oregon.

(13) To provide for lighting the streets, public grounds, buildings and places, and furnishing the city with electric, gas or other lights, by contract or by means of its own plant, subject to the conditions and limitations contained in this Charter, and the Constitution of the State of Oregon.

(14) To provide by ordinance for securing the payment of wages to mechanics and other employees in the service of contractors engaged in doing work of any kind for the city, either by exacting bonds from such contractors or otherwise as may seem most advisable.

(15) To provide for furnishing the city with water, as elsewhere in this Charter provided.

(16) To provide a seal for the city and seals for the several boards and officers thereof and a seal for the municipal court.

(17) To establish and regulate the fees and compensation of all officers of the city, except when expressly provided by this Charter, and for all official services not otherwise provided for in this Charter.

(18) To fix a schedule of fees for establishing grades, surveying and marking the boundaries of streets, lots or blocks, granting permits for the opening of street surfaces, grading streets, laying sidewalks, the erection and inspection of buildings and plumbing fixtures therein.

(19) To fix by ordinance the hours during which all offices and departments shall be kept open for business.

**(b. Finance and Revenue Powers.)**

(20) To appropriate money to pay the debts, liabilities and expenditures of the city or any part or item thereof.

(21) To grant licenses with the object of raising revenue or of regulation, or both, for any and all lawful acts, things or purposes, and to fix by ordinance the amount to be paid therefor, and to provide for the revoking of the same. No license shall be granted to continue for a longer period than one year from the date thereof. All money received from licenses for vehicles of every description, whether for pleasure or for business, shall go to the credit of the Street Repair Fund, but the Council may in its discretion set aside the moneys arising from licenses upon bicycles for the construction or repair of bicycle paths.

(22) To expend for purposes not in this Charter otherwise authorized during any fiscal year moneys out of the General Fund of this city not exceeding in the aggregate the sum of \$1000.00, no part of which sum shall be expended except by ordinance duly passed by the affirmative vote of two-thirds of the members of the Council.

(23) The Council must appropriate annually to the Mayor \$600.00 as and for a Secret Service Fund, for which he need furnish no vouchers.

(24) Except as otherwise expressly provided in this Charter, the city shall not have power to issue its bonds for any indebtedness, or for any purpose, or to increase the bonded indebtedness of the city in any amount or for any purpose whatsoever.

**(c. Powers Relating to Public Health, Welfare and Safety.)**

(25). To make regulations to prevent the introduction of contagious diseases into the city, and to remove persons afflicted with such diseases therefrom to suitable hospitals provided by the city for that purpose, which hospitals may be within or without said city; and to provide and to regulate such hospitals; to secure the protection of persons and property therein, and to provide for the health, cleanliness, ornament, peace and good order of the city.

(26) To prevent and remove nuisances, and to declare what shall constitute the same, and to punish persons committing or suffering nuisances, and to provide the manner of their removal, and to make the cost of such removal a lien upon the property where such nuisance existed; and to fill up or drain any lots, blocks or parcels of land where any stagnant water stands, and to declare the same a nuisance, and to make the cost of filling up or draining the same a lien upon the property so filled or drained. Such liens may upon the order of the Council be entered in the docket of city liens and thereafter collected in the same manner as assessments for street improvements, or may be collected in such other manner as the Council may direct.

(27) To regulate, restrain and to provide for the exclusion from the city, or any part thereof, of stock-yards, tanneries, slaughter houses, wash houses and laundries and all other offensive trades, occupations or businesses.

(28) To regulate the plumbing, drainage and sewerage of buildings and the use of steam boilers and steam generators; to provide for the registration of plumbers and stationary engineers; to create the offices and define the duties of plumbing inspector and of boiler inspector.

(29) To compel all persons erecting or maintaining privies or cess-pools within one hundred feet of any street in which a sewer has or may hereafter be constructed, to connect the same therewith; provided, that in cases where blocks are more than two hundred feet in width, this authority shall extend to the center of the block.

(30) To regulate the construction, care, use and management of hotels, tenement houses, lodging houses and cellars in the City of Portland for the better protection of the lives and health of the inmates dwelling therein, and of others.

(31) To regulate and to provide for and determine the number and size of places of entrance and exit from all theaters, public halls, places of amusement, churches and other buildings used for public gatherings and the modes of hanging doors thereat.

(32) To prevent and prohibit the erection of dangerous and unsafe buildings, and to cause the removal or tearing down of the same wherever situated.

(33) To prevent the erection or moving of buildings within the city limits which shall be dangerous to the passers-by or to the adjacent property or an obstruction to public travel; and in case any building or structure shall become dangerous to passers-by, the Council shall have power to cause the same to be removed or made safe at the expense of the property upon five days' notice to the owner thereof or his agent, and to determine by resolution when the same is dangerous. Such expense shall be made a lien upon the property. Such liens may upon the order of the Council be entered in the docket of city liens and thereafter collected in the same manner as assessments for street improvements or may be collected in such other manner as the Council may direct.

(34) To define the fire limits and to prohibit the erection or repair of wooden buildings within the fire limits; to regulate the height, construction, inspection and repair of all private and public buildings within the city; and to create the office and define the duties of building inspector; to establish sidewalk districts and to determine the character of sidewalks in any of said districts and to specify the time at the expiration of which all sidewalks shall be of a specified character.

(35) To require adequate fire escapes, apparatus and appliances, for protection against fire, to be provided in buildings.

(36) To regulate or prevent the storage, manufacture and sale of dangerous, explosive, or combustible materials, including gunpowder, dynamite, giant powder, calcium carbide, nitro-glycerine, oil and gas, and to provide for the inspection of the same; to prevent by all proper means all risks of injury or damage by fire arising from negligence or otherwise.

(37) To regulate the transportation of gunpowder, dynamite, nitro-glycerine and other combustibles and explosives through the streets of the city.

(38) To regulate and prohibit the use of all guns, pistols and firearms, missile weapons, fireworks, firecrackers, bombs and detonators of all descriptions.

(39) To regulate and prevent public criers, advertising notices, steam whistles, the ringing of bells and playing of bands.

(40) To regulate, prevent and prohibit the erection, maintenance or display of signboards and billboards, and of signs, posters or other

advertisements, or advertising matter which are offensive, improper, unsightly, indecent, lascivious or obscene upon, along or near the sidewalks, streets or public places.

(41) To regulate and prohibit the exhibition and hanging of banners and placards or flags in or across the street or from houses or other buildings.

(42) To regulate or to prohibit the driving of horses, cattle, sheep, hogs and other animals and livestock through the streets.

(43) To restrain and regulate the keeping of all domestic animals and to prevent any and all domestic animals from running at large within the city or any part thereof, and to punish those who allow animals so to run; to provide for the impounding of the same and also to provide for the sale of such animals upon five days' notice.

(44) To regulate and restrain the keeping and the running at large of dogs; to punish those persons who allow their dogs to be unlicensed or to run at large against the regulations established, and to provide for the impounding of dogs and for the killing of the same when kept against such regulations, or on which no license has been obtained or tax paid as provided by the Council.

(45) To protect the public from injury by runaways by punishing persons who leave horses or carriages in the streets without being fastened.

(46) To require all railways and railroads to provide proper fenders and other safety appliances and the latest and most approved machinery and methods for their cars and tracks and the operation thereof for the protection of human life and the lessening of danger thereto and to enforce such regulations by such fines and penalties as may be prescribed by ordinance.

**(d. Criminal and Police Powers.)**

(47) To provide for the punishment by fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment not exceeding two years, or both, of any person or persons who may injure, deface, interfere with or destroy any of the property belonging to the city or in which the city has any interest, right or estate, and to provide that the Municipal Court or the Circuit Court of the State of Oregon for the County of Multnomah shall have jurisdiction to enforce such punishment or punishments.

(48) To regulate and restrain bartenders, saloon keepers, dealers in and manufacturers of spirituous, vinous, fermented or malt liquors, barrooms, drinking shops or places where spirituous, vinous, fermented or malt liquors are kept for sale or in any manner disposed of, and the sale and disposal thereof; all offensive and dangerous trades, employments or business; and for the purpose of this Charter to define

and declare who is a bartender, saloon keeper or dealer in spirituous, vinous, fermented or malt liquors, and what is a barroom, drinking shop or place where spirituous, vinous, fermented or malt liquors are kept for sale or disposed of and what are offensive or dangerous trades, employments or businesses. No provision of the law concerning the sale or disposition of any spirituous, vinous, fermented or malt liquors in Multnomah county shall apply to the sale or disposition of the same in the City of Portland. No license shall be granted to any person or persons to vend, deal in or dispose of any spirituous, vinous, fermented or malt liquors (except to regularly licensed druggists or to grocers, who may be authorized to sell such liquors not to be used or drunk upon the premises) within four hundred (400) feet, measured on street lines, of any block on which a public school building is situated within the City of Portland.

(49) To prevent and suppress gaming and gambling houses, lotteries or places where any game in which chance predominates is played for anything of value, and to punish any person who engages in such game, or keeps or frequents such houses or sets up or promotes lotteries or sells lottery tickets; to prevent and suppress bawdy houses or places where fornication is practiced, and to punish any inmate, keeper or frequenter thereof; to prevent and suppress opium smoking and houses and places kept therefor and to punish any keeper of such house or place, or person who smokes opium therein or frequents the same; to regulate the sale of cigarettes, cigars and tobacco and to prohibit the sale of the same to minors.

(50) To prevent the sale, circulation and disposition of obscene literature, including books, papers, prints, pictures and the like, and to punish any person who sells or offers for sale, or who circulates or disposes of such literature, books, papers, prints, pictures and the like, and to define and declare from time to time what literature, books papers, prints, pictures and the like are obscene within the purposes and province of this provision.

(51) To prevent trespassing and punish trespassers upon real and personal property.

(52) To restrain and punish intoxication, fighting and quarreling in the city, and any disturbance or any unlawful or indecent practice, and to define what shall constitute the same.

(53) To prevent, restrain and disperse any riot or riotous assemblage, and to restrain and punish any person taking part therein.

(54) To define what shall constitute vagrancy, and provide for the support, restraint, punishment and employment of vagrants and paupers.

(55) To prohibit persons from roaming the streets at unseasonable hours.

(56) To prohibit the carrying of dangerous weapons in a concealed manner.

(57) To prohibit and prevent cruelty to children and animals; to appropriate such sums as may be paid into the treasury from fines collected on conviction of persons charged with cruelty to animals or children, and to authorize the payment of the same or any part thereof to any society that shall have officially aided in such conviction.

(58) To prohibit the exhibition of deformed or crippled persons, and to prohibit all persons from begging upon the streets or in public places.

(59) To establish, change, discontinue or re-establish city jails, prisons, police stations, work houses and houses of detention, punishment and confinement.

(e. Streets.)

(60) Except as otherwise provided in this Charter or in the constitution or laws of the State of Oregon, to regulate and control for any and every purpose the use of the streets, highways, alleys, sidewalks, public thoroughfares, public places and parks of the city; to regulate the use of streets, roads, highways and public places for foot passengers, animals, bicycles, automobiles and vehicles of all descriptions.

(61) To regulate, restrain and prevent obstructions within the public streets, sidewalks and places and to make all needful regulations to keep and maintain the public streets, sidewalks and places in a clean, open and safe condition for public use; to provide for the removal, impounding and sale or other disposition of such obstructions upon five days' notice.

(62) To regulate the use of the streets and sidewalks for the use of signs, sign-posts, hitching posts, awning posts and bicycle racks.

(63) To control and limit traffic on the streets, avenues and elsewhere.

(64) To prescribe the width of tires of all vehicles, and the weight to be carried thereby.

(65) To regulate the use of sidewalks; prevent the extension of building fronts and house fronts over the street line, and to prohibit the building and use of barbed wire fences; to regulate the limits within which it shall be unlawful to erect steps, porticos, bay windows or structural ornaments to houses fronting on any of the streets, lanes or alleys of the city.

(66) To prohibit the planting, growing and use of trees such as may be detrimental to the sewers or to the use of the sewers, and to cause such last-mentioned trees to be cut down or removed.

(67) To set apart as a boulevard or boulevards any street or streets.

or portion of a street or streets, over which there is no existing franchise for any street or other railroad.

(68) To provide for surveying the blocks and streets of the city and for marking the boundary lines of such blocks and streets; to change by ordinance the number, letter or designation of any lot, block or tract of land within the city which may be conflicting or otherwise unsuitable and to give by ordinance a designation to any tract of land within the city not numbered, lettered or designated. A certified copy of such ordinance shall be transmitted by the Auditor to the recording officer of the county, who shall record the same in the Record of Plats of said county and shall make a reference to the record of such ordinance upon the recorded plat on file. No charge shall be made by the recording officer.

(69) To regulate the numbering of houses and lots on the streets and avenues and the naming of streets and avenues.

(70) To provide a series of conduits under the streets, lanes, alleys and public places of the city or any part or parts thereof for the use of telephone, telegraph, electric light and other wires, or for other purposes, either by constructing said conduits itself or authorizing their construction by others upon such terms and conditions as the Council may impose, and to regulate and control the use of such conduits, and to prescribe and establish reasonable rentals to be paid by any person or company using any of said conduits by whomsoever the same may be constructed for the use thereof, and to provide for the collection of such rentals, in addition to the ordinary processes, by such summary methods as it may deem proper. If any such grant be made to any person, firm or corporation, such grantee shall not have power to sublet the same or the use of the same to any person, firm or corporation engaged in selling, hiring, leasing or otherwise receiving any income from the business or purpose for which it desires to use such conduits, without such person, firm or corporation first obtaining, as provided in this Charter, a franchise for such business, purpose or use.

(f. Commerce.)

(71) To prescribe rates to be charged for transportation of passengers or property within the limits of the city by means of vehicles of every description.

(72) To provide for the establishment of market houses and places, and to regulate the location and management thereof.

(73) To provide a standard of weights and measures and to authorize inspection of weights, measures, food and fuel; to regulate the size and weight of bread, other food products and fuel, and to prevent the sale of adulterated, unhealthful and unwholesome food, and to provide for the seizure and forfeiture of bread, other food products and fuel offered for sale or sold contrary to said regulations.

**(g. Wharves, Docks and Harbor.)**

(74) To define the duties of harbormaster, additional to those elsewhere in this Charter provided.

(75) To provide for the removal of obstructions, debris and other deleterious matter from the Willamette River within the city limits and to prohibit putting or negligently or wilfully suffering the same to be put therein.

(76) To regulate the building of wharves, and the driving of piles in the Willamette River within the limits of the city, and to establish lines beyond which wharves shall not be built nor piles be driven.

(77) To provide for the construction and regulation of landings at the foot of the streets terminating at the Willamette River.

(78) To appropriate money for the deepening, widening, docking, covering, walling, altering, or changing channels, waterways, or water courses within the city, and to provide for the construction and maintenance of canals, slips, public landing places, wharves, docks and levees, and all such other work as may be required for the accommodation of commerce; to control and regulate the use thereof and to provide for the acquisition by condemnation or otherwise of all such work or works by the city, and for the construction, maintenance and ownership of the same by the city.

**Enumeration of powers not to limit general grant.**

Section 74. The foregoing or other enumeration of particular powers granted to the Council in this Charter shall not be construed to impair any general grant of power herein contained nor to limit any such general grant to powers of the same class or classes as those so enumerated.

**ARTICLE V.****Public Utilities and Franchises.****(a. Public Utilities.)****Definition of "street" as used in this article.**

Section 75. The term "street" as used in this article shall be construed to include any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, or public thoroughfare, and any land over which any right of way has been obtained, or granted, for any purpose of public travel.

**Public utilities acquired by vote of people.**

Section 76. The Council of the City of Portland shall at all times, under the limitations herein set out, have power to provide by ordinance for lighting the streets and all public places in the city and furnishing water to the inhabitants thereof; to provide for the acquisi-

tion, ownership, construction and maintenance of water works, gas works, electric light works, steam, water or electric power works, heating works, telephone lines, street railways, bridges and ferries, and such other public utilities as the Council may designate; provided, however, save as otherwise prescribed in this Charter, no contract or agreement for the purchase, condemnation, ownership, construction or operation by the city, of any public utility shall be entered into by the Council without first submitting such proposed contract or agreement to the qualified voters of the city, in accordance with the provisions of this article.

**City Engineer to furnish estimates and plans.**

Section 77. The Council may by a two-thirds' vote procure through the City Engineer plans and estimates of the cost of construction and completion of any public utility or utilities.

**Council to submit to the people propositions for acquirement of public utilities.**

Section 78. After such plans and estimates shall have been procured and filed, it shall at as early a date as may be deemed for the best interests of the city, enter into negotiations for the permanent acquisition by the city by original construction, condemnation or purchase of such or any such public utilities as the Council may deem advisable, and formulate and submit to the electors of the city at a special or regular city election propositions for the permanent acquirement and ownership thereof.

**Council must solicit and consider offers for sale to City of existing utilities.**

Section 79. Before submitting propositions to the electors for the acquisition by original construction, purchase or condemnation of public utilities of like character, the Council must solicit and consider offers for the sale to the city of existing utilities in order that the electors shall have the benefit of acquiring the same at the lowest possible cost therefor.

**Council to submit question of acquiring public utility to people upon petition therefor.**

Section 80. Whenever a petition or petitions signed by electors of the city equal in number to fifteen per centum of all the votes cast at the last preceding election shall be presented to the Council, setting forth that the signers thereof favor the acquisition by the city of any public utility, and requesting the Council to prepare for submission to the electors of the city as hereinafter provided, a proposition for the acquisition of such utility, it shall be the duty of the Council to immediately take such steps and enter into such negotiations as will enable it to formulate such a proposition for submission to the electors as aforesaid. Such proposition shall be so formulated and completed

within six months from the date of the filing of such petition. The Auditor must, immediately upon the filing of the aforesaid petition or petitions, after examining and verifying the signatures thereto, transmit an authenticated copy thereof, without the signatures, to the Mayor, together with a certificate that the required number of signatures are appended to the original. The Mayor shall also have the right to formulate and submit to the electors a separate proposition from that formulated by the Council for the acquisition of the utility named in said petition. At the next municipal election after the formulation of such propositions by the Council and Mayor, the Council shall submit to the electors the question of acquiring such utility and its proposition therefor, and any proposition submitted by the Mayor, and the electors shall be required to vote upon the question, first, whether such public utility shall be acquired or not, and second, upon the question which proposition is the preferable one. In case the vote shall be in favor of acquiring said public utility, then the proposition submitted receiving a majority of the votes cast upon the alternative propositions submitted shall be adopted.

**Council may proceed upon filing of petition.**

Section 81. Nothing in the preceding section shall be so construed as to prevent the Council from responding to the aforesaid petition of the electors requesting the acquisition of any public utility by proceeding at once, without the submission of propositions to the electors as aforesaid, to pass an ordinance declaring its determination to acquire the same as provided in section 84 of this Charter, and from proceeding thereafter to acquire the same in the manner hereinafter provided.

**Proposition submitted to electors.**

Section 82. In case the cost of any public utility sought to be acquired under the provisions of this article can be paid out of the annual revenues of the city, in addition to the payment of the other necessary expenditures thereof, it shall be lawful to acquire the same at any time after an election at which a majority vote of the electors voting thereon shall have been cast in favor of such acquisition. In submitting propositions to the electors for such acquisition the Council shall specify in such proposition the cost of the public utility, the proposed method and manner of payment therefor and submit to the electors the question whether the same shall be acquired upon such terms.

In case, however, the cost of such utility sought to be acquired under the provisions of this Charter shall so far exceed the annual revenues of the city, in addition to the payment of the other necessary expenditures thereof, as to render it necessary to incur a municipal bonded indebtedness for such purpose, then the Council in submitting propositions to the electors for the acquisition thereof, shall specify

therein the amount of the proposed bonded indebtedness, the rate of interest thereon, and whether such bonded indebtedness shall be incurred. At least two-thirds of the electors voting thereon at such election shall be necessary to secure such acquisition and to warrant the issuance of municipal bonds therefor, as hereinafter set forth.

**If election favorable to acquirement, Council to call further special election.**

Section 83. When the electors by vote shall have determined, as hereinbefore set forth, to acquire any public utility, such action on the part of the electors shall be equivalent to the passing of the ordinance by the Council declaring such determination as set forth in section 84 of this Charter, and the Council shall proceed without delay to pass an ordinance calling a special election as required by section 85 of this Charter.

**Council shall publish ordinance.**

Section 84. When the Council shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the city, the Council shall by ordinance specifically declare such determination, and shall publish said ordinance for at least two weeks in the city official newspaper.

**Council to call special election.**

Section 85. At the next regular meeting of the Council after the publication of the ordinance declaring said determination as above set forth, or at an adjourned meeting thereof, or not less than two weeks nor more than four weeks after the electors by vote shall have determined to acquire any public utility, the Council by ordinance shall call a special election, at which shall be submitted to the electors the proposition of acquiring such public utility, and of incurring a debt for the acquisition of the same, as set forth in such ordinance. No question other than the acquisition of such utility and the incurring of the indebtedness therefor shall be submitted at such election.

**Ordinance calling election to set forth details.**

Section 86. The ordinance calling such special election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the proposed utility, the necessity for the acquisition of the same, and that bonds of the city shall issue for the payment of the cost of the same as in such ordinance set forth if the proposition be accepted by the electors, and shall fix a day on which such special election shall be held, the manner of holding such election, and the manner of voting for or against incurring such indebtedness. Such election shall be held as provided by law for holding elections in the city.

**Publication of ordinance and notice of election.**

Section 87. Such ordinance shall be published daily for at least ten days in the city official newspaper. At the expiration of said ten days the Council shall cause to be published daily for not less than two weeks in the city official newspaper a notice of such special election. Such notice shall specify the purpose for which the indebtedness is to be incurred, the number and character of the bonds to be issued, the rate of interest to be paid, and the amount of tax levy to be made for the payment thereof.

**Limitation on indebtedness for acquiring public utility.**

Section 88. No indebtedness shall be incurred for the acquisition of any public utility under the provisions of this Charter which, together with the existing bonded indebtedness of the city, shall exceed at any one time seven per centum of the assessed value of all real and personal property in the city, but in estimating such bonded indebtedness, all bonds given for the acquisition or construction of public properties and utilities, the interest on which bonds is paid out of the earnings of said public utilities or properties, shall be excluded, provided that whenever and for so long as such utility or undertaking fails to produce a sufficient revenue to pay all costs of operation and administration (including interest on the city bonds issued therefor and the cost of insurance against loss by fire, accidents and injuries to persons) and an annual amount sufficient to pay at or before maturity all bonds issued on account of said undertaking, all such bonds outstanding shall be included in determining the limitation of the city's power to incur indebtedness, unless the principal and interest thereof be payable exclusively from the receipts of such undertaking. The Auditor shall annually report to the Council in detail the amount of revenue from each such undertaking and whether there is any, and if so, what, deficit in meeting the requirements above set forth.

**Bonds issued; their form; how sold; proceeds.**

Section 89. The bonds issued under the provisions of this article shall be payable in gold coin of the United States. Not less than one-fortieth part of the whole amount of indebtedness shall be paid each and every year, on a day and at a place to be fixed by the Council, together with the interest on all sums unpaid at such date. The bonds so issued shall be exempt from all taxation for municipal purposes, and shall be issued in denominations of not less than one hundred dollars nor greater than one thousand dollars, and among equal bidders preference in the sale and allotment thereof shall be given to the bidders residing in the State of Oregon for the smallest amounts and lowest denominations.

Said bonds must be payable on the day and at the place fixed therein, and with interest at the rate specified therein, but such interest shall not exceed four per centum per annum, payable annually, or semi-

annually, as the Council may determine. Such bonds, when issued, may be sold by the Council from time to time, as required, and in such quantities as they may determine, but the same must be sold for cash in gold coin of the United States as aforesaid and to the highest bidder at not less than par, after having been advertised in the official newspaper. They shall be sold under sealed proposals, and the Council shall have the right to reject any or all bids made for the purchase thereof. The proceeds of such sale shall be placed in the treasury to the credit of the proper fund and shall be applied exclusively to the purposes and objects mentioned in the ordinance authorizing their issue until such objects are fully accomplished, after which, if any surplus remains, such surplus shall be transferred to the General Fund.

**Bonds; signature; coupons; numbering.**

Section 90. Such bonds shall be signed by the Mayor and Auditor, under the seal of the City of Portland, with interest coupons attached thereto with the signature of the Mayor engraved thereon. The coupons shall be numbered consecutively, and the bonds and coupons shall be payable at the office of the Treasurer.

**Council to levy tax to pay interest.**

Section 91. If the bonds issued for such undertaking, and the interest thereon, are not payable exclusively from the receipts of such undertaking, then at the time of the levying of the municipal tax and in the manner provided for such tax levy, if the receipts from said public property or utility be insufficient to meet the interest maturing thereon and the amount necessary for the sinking fund provided herein, over and above all operating expenses and expenses of maintenance and renewals, then the Council shall levy and collect annually a tax sufficient to pay the annual interest on such bonds, and also to pay the proper aliquot part of the aggregate amount of such indebtedness so incurred. Such taxes shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected.

**Penalty for refusal of Council to comply herewith.**

Section 92. A neglect or refusal on the part of the Council to comply with the provisions of this article shall constitute cause for the removal from office of any member or members of the Council guilty of such neglect or refusal.

**(b. Franchises.)**

**Title of city to property; sale and lease thereof.**

Section 93. The title of the City of Portland in and to all waterfront, wharf property, land under water, public landings, wharves, docks, ferries, highways, bridges, avenues, streets, alleys, lanes, parks

and all other public places, and like property that it now owns or may hereafter acquire, is hereby declared to be inalienable except as is otherwise in this Charter provided, but the city may sell any building or parcel of land owned by it, which may not be needed for public use. Such sale shall be made by the Executive Board in its discretion when thereto authorized by ordinance passed by a vote of at least two-thirds of all members of the Council and approved by the Mayor, but shall be made only at public auction. The Executive Board may rent any of such property not needed for public purposes for a term not exceeding five years, but no lease of any such property shall be made for a longer period than five years, except as herein expressly provided.

**Grant of franchises; form of grant.**

Section 94. The Council may, subject to the limitations and conditions contained in this Charter, grant for a limited time specific franchises or rights in or to any of the public property or places mentioned in the preceding sections. Every such grant shall specifically set forth and define the nature, extent and duration of the franchise or right thereby granted, and no franchise or right shall pass by implication. At all times the power and right reasonably to regulate in the public interest the exercise of the franchise or right so granted shall remain and be vested in the Council and said power and right cannot be divested or granted.

**Duration of franchise and compensation therefor; terms of grant: city empowered to acquire plant or property.**

Section 95. No franchise, lease or right to use the water front, ferries, wharf property, land under water, public landings, wharves, docks, highways, bridges, avenues, streets, alleys, lanes, parks or any other public place, either on, through, across, under or over the same, nor other franchise, shall be granted by the city to any private corporation, association or individual except as in this Charter otherwise provided, for a longer period than twenty-five (25) years nor without fair compensation to the city therefor, and in addition to the other forms of compensation to be therein provided the grantee may be required to pay annually to the city such percentage of the gross receipts arising from the use of such franchise and of the plant used therewith as may be fixed in the grant of said franchise. Every grant of a franchise shall fix the amount and manner of the payment of the compensation to be paid by the grantee for the use of the same and no other compensation of any kind shall be exacted for such use during the life of the franchise, but this provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any licenses, charges or impositions not levied on account of such use. Every grant of a franchise or right and every contract therefor made or granted under the provisions of this Charter shall provide that at the expiration of the term or period for which it is made or granted the city at its

election and upon the payment therefor of a fair valuation thereof to be made in the manner provided therefor in the grant or contract may purchase and take over to itself the property and plant of the grantee in its entirety and which may be situated on, in, above or under the streets and public places aforesaid or any thereof and used in connection therewith but in no case shall the value of the franchise of the grantee be considered or taken into account in fixing such valuation or such grant and contract in pursuance thereof may provide that upon the termination of said franchise, or right, granted by the city, the plant as well as the property, if any, of the grantee situated on, in, above or under the public places aforesaid and used in connection therewith shall thereupon be and become the property of the city without any compensation to the grantee, upon an ordinance duly enacted authorizing the same and upon its paying to the grantee said valuation; provided, however, that before the city shall have authority to take over such plant or property, the question whether or not the city shall acquire or take such plant and property shall first be submitted to the voters of the city in accordance with and subject to the foregoing limitations of this Article; and provided, further, that the question whether or not the city shall acquire or take such plant or property must be submitted to the voters of the city as above provided without such ordinance, whenever a petition shall be filed with the Council subscribed by a number of electors of the city equal to 15 per centum of the votes cast at the last preceding election asking that such question shall be submitted for approval or rejection to the vote of the people. Such ordinance must be passed or such petition filed within one year prior to the expiration of such grant or franchise and within a sufficient time before the expiration of such year so that if a special election is required to be held to pass upon such question, the same can be held within six months prior to such expiration. Such petition shall be sufficient if it conforms to the requirements of sections 53 and 54 of this Charter as to the petition therein provided for. Every grant reserving to the city the right to acquire the plant as well as the property, if any, of the grantee situated in, on, above or under the streets, avenues, or other public places of the city shall in terms specify the method of arriving at the valuation therein provided for and shall further provide that upon the payment by the city of such valuation the plant and property so valued, purchased and paid for shall become the property of the city by virtue of the grant and payment thereunder and without the execution of any instruments of conveyance and every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of efficient service and for the continued maintenance of the property in good order and repair throughout the entire term of the grant; but the terms of this section so far as they relate to the acquisition of the plant, property and business of the grantee shall not apply to the rights given railroads under sections 102 and 103 of this Charter.

**Power to operate plant, if acquired; to sell or lease; new franchise in lieu of expiring franchise; valuation of plant to be fixed by arbitrators.**

Section 96. If by virtue of the terms of any grant or franchise and as set out in section 95 of this Charter any plant or property shall become the property of the City of Portland the city shall have the option at any time then or thereafter either to take and operate the same on its own account, or to lease the same or any part thereof together with the franchise or right to use the highways, avenues, streets, lanes and alleys or other public property in connection therewith for periods not exceeding twenty-five years under such rules and regulations as it may prescribe, or to sell the same to the highest bidder at public sale. If on the other hand the City of Portland shall elect that it will not acquire the plant and property so valued, and application be made by some corporation, association or individual other than the holder of the expiring franchise for a franchise in lieu of the expiring franchise, and the corporation, association or individual holding said expiring franchise desire and make application for a new franchise in lieu of the franchise so expiring, and a new franchise in lieu of such expiring franchise be granted, such new franchise shall be granted to the corporation, association or individual holding such expiring franchise at the compensation fixed to be paid the city therefor, unless such other applicant therefor shall in addition to the compensation to be paid the city for such franchise pay to the city in trust for the holder of such expiring franchise the fair and equitable valuation made of the plant and property of the holder of such expiring franchise on, in, above or under the streets, avenues and other public places of the city, excluding therefrom in arriving at such valuation, any value derived from franchises or rights. The valuation herein provided for shall be fixed by arbitrators, one to be appointed by the owner of the expiring franchise, and the other by the Council, and in case of a failure of said arbitrators to agree upon said valuation within a reasonable time, said arbitrators shall elect an umpire, and in case of a failure of said owner of said expiring franchise to select an arbitrator or of a failure of said arbitrators in a reasonable time to select an umpire, then the Council shall appoint both such arbitrators and umpire, and the decision of a majority of such arbitrators shall be final and binding as to the valuation aforesaid.

**Ordinance embodying franchise to be published.**

Section 97. Before any grant of any franchise or right to use any highway, avenue, street, lane or alley or other public property, either on, above or below the surface of the same shall be made, the proposed specific grant shall be embodied in the form of an ordinance, with all the terms and conditions, including all provisions as to rates, fares and charges, if any, which proposed ordinance shall be published in full at the expense of the applicant for the franchise, at least twice in the

city official newspaper. Such publication shall take place and be completed not less than twenty nor more than ninety days before the final passage of such ordinance, and such ordinance shall require for its passage the affirmative vote of at least two-thirds of all the members of the Council, as shown by the "yeas" and "nays," and the approval of the Mayor before it shall be valid for any purpose; but in case the Mayor should veto any such ordinance it can only be passed over such veto by a four-fifths vote of all the members of said Council, in which case the same shall be valid without the Mayor's approval from and after such passage. No amendment to any franchise after publication shall be valid unless the ordinance as amended shall be re-published in like manner and for like time as the original.

**No franchise to be granted within sixty days of introduction of ordinance therefor; nor unless to be used within one year.**

Section 98. No ordinance for a grant of any franchise shall be put on its final passage within sixty days of its introduction and no franchise shall be granted which shall not by its terms go into effect within one year after its passage.

**Holder or grantee of franchise to keep books and make reports to Auditor; penalty for failure.**

Section 99. Every grantee or holder of a franchise from the city rendering service to be paid for wholly or in part by the users of such service shall keep full and correct books of account and make stated quarterly reports in writing to the Auditor, which shall contain an accurate statement in summarized form, as well as in detail, of all receipts from all sources, and all expenditures for all purposes, together with a full statement of all assets and debts, as well as such other information as to the costs and profits of said service and the financial condition of such grantee as the Auditor may require. Such reports shall be public records and a summary thereof shall be printed as a part of the annual report of the Mayor, and the Auditor may inspect or examine, or cause to be inspected or examined, at all reasonable hours, any and all books of account and vouchers of such grantee. Such books of account shall be kept and such reports made in accordance with forms and methods prescribed by the Auditor, and, so far as practicable, shall be uniform for all grantees and holders of franchises. Every failure or neglect on the part of the grantee or holder of a franchise under this Charter to keep books of account or to make reports under this section, shall authorize the city to declare a forfeiture of such franchise; and every such failure or neglect shall also be deemed a misdemeanor and the Council of the City of Portland may by ordinance provide for the punishment of every such violation, failure or neglect, by fine or imprisonment or both, of the person or persons whose duty it shall be to keep such books of account or make such reports.

**Taxation; requirements of all franchises; street repair; abandonment.**

Section 100. Every franchise granted under this Charter shall be taken and deemed as property and shall be subject to taxation as property. Franchises granted to persons or corporations to construct, maintain and operate street railways and other railways and tramways shall provide that the grantee of the franchise or his or its assigns, representatives and successors shall keep those portions of the streets and other public places occupied by said street railways or other railways or tramways in good repair and as required by the Council, and that all persons or corporations to whom franchises are granted to lay down tracks for street railways or other railways and their or its representatives or successors, shall during the life of such franchise, plank, pave, repave, reconstruct or otherwise improve or repair or maintain in good condition and in the manner directed by the Council and by the Executive Board the whole or any portion of the streets along or over which said street railway or other railways shall be constructed, lying between the rails of any track thereof and extending one foot outside of such rails, and also the portions of the street lying between any two tracks; but in the cases of the franchise or rights granted under sections 102 and 103 of this Charter it may be provided in said franchise that said grantee or his or its assigns, representatives and successors shall pave, repave and keep in repair as required by the Council the streets used by such railroad from curb to curb.

Such franchise shall contain a provision that in the event any street, or portion of a street, or other public place, granted by said franchise and used by such grantee, his or its representatives and successors, shall during the life of the franchise be abandoned by such grantee his or its successors or assigns, such grantee, or his or its successors or assigns shall forthwith be required to remove its tracks and other property therefrom and on the removal thereof restore, repair or reconstruct that portion of the street which under his, its or their franchise was to be kept in repair by the grantee, their, his or its successors or assigns so that it shall be placed in such condition as may be required by the Council and shall contain a provision to the effect that a failure to comply within a reasonable time with any of the provisions or conditions of such franchise shall authorize the city to declare an immediate forfeiture of such franchise and in the case of said street railways, or other railways or tramways the road or track constructed thereunder shall likewise be forfeited, or in case of such failure or neglect or refusal of the grantee after thirty days' notice given by the Council to repair, improve or maintain as above set out the portions of the streets above described then that the said city may at its option do such work and the cost of the same as ascertained and declared by the Council shall be entered in the docket of City Liens and enforced in like manner and with like effect as a general tax upon real or personal property of the grantee after delinquency.

If any street or public place be abandoned as aforesaid, that portion of the franchise under which said street or public place was used by the grantee or his successors shall thereafter be null and void, and shall be forfeited without any further action on the part of the city. On any street or public place being abandoned as aforesaid, the City Engineer shall forthwith file with the Auditor a certificate, giving date of abandonment and description of the street or public place so abandoned, and the Auditor shall forthwith file the same and enter a notation thereof on the records of such franchise in his office. Such franchise shall also contain a provision that if electrical currents are used or employed in or about the use of said franchise or the plant connected therewith, then that the said grantee, his, its, or their successors or assigns shall provide and put in use such means and appliances as will control and effectually contain such currents in their proper channels and on his, its or their own wires, tracks and other structures, so as to prevent injury to the property, pipes and other structures belonging to the City of Portland or to any person, firm or corporation within said city, and to repair and renew said means and appliances and from time to time to change and improve the same as may be necessary to accomplish said purpose, all at his, its or their charge and expense and at his, its or their own risk, selecting and adopting such means and appliances as shall prevent injury to the property, pipes and other structures belonging to the said City of Portland or to any person, firm or corporation.

**Further requirements to be stated in ordinance; time of construction; cost; and time of completion of work in certain cases.**

Section 101. In addition to the conditions otherwise required by this Charter and such other conditions as may be prescribed by the Council, franchises must provide for the time of beginning the construction of work thereunder, the estimated total cost of such work, the monthly or yearly sums of money to be expended thereon, and in the case of franchises running to railroad companies, street-car companies and other companies, covering certain streets or portions of streets in such franchises described, fix the time within which the work to be done under such franchise shall be completed upon such streets or portions of streets so described therein.

**Council, on petition or assent of majority of adjacent property owners, may authorize construction of railroad tracks.**

Section 102. The Council of the City of Portland shall have the power, on application or assent in writing of the owners of the major part in extent of the front feet of the lots or tracts of land fronting on each side of that portion of any street or part or parts of a street over or on which it is desired to lay or construct railroad tracks for connections, extensions, spurs, sidings or switches, other than those for street railways, to pass, subject to the provisions and requirements

of sections 95, 97, 100 and 101 of this Charter, such ordinances as shall be necessary to authorize the construction of such tracks.

**Council empowered to make agreements with railroads as to use of streets.**

Section 103. The Council has power and authority by ordinance duly passed to agree with any corporation, firm or person constructing a commercial railroad and desiring to enter the city, upon the extent, terms and conditions upon which the streets, alleys or public grounds of the city may be appropriated, used or occupied by such railroad, and upon the manner, terms and conditions under which the cars and locomotives of such railroad may be run over and upon such streets, alleys and public grounds; such agreement shall be subject to the provisions and requirements of sections 95, 97, 100 and 101 of this Charter. No exclusive right for the aforesaid purposes shall be granted to any corporation, firm or person and the use of all such rights shall at all times be subject to regulation by the Council.

In addition to the other requirements of this Charter, every ordinance granting such right shall be upon the condition that such grantee shall allow any other railroad company to use in common with it the same track or tracks upon obtaining the consent of the Council expressed by ordinance, each paying an equitable and proper portion for the construction and repair of the tracks and appurtenances used by such railroad companies jointly.

**Exclusive franchises for conduits, wires, etc., prohibited—grantee not to sublet without consent of City.**

Section 104. No exclusive franchise or privilege shall be granted for the laying of pipes, wires or conduits or for the use of any street, alley, highway or other public place or part thereof, and no grantee of such franchise or privilege shall be entitled to sub-let the same or allow any other to use the same without the consent of the city expressed by ordinance duly passed.

**Powers of regulation over street and other railways.**

Section 105. The Council of the City of Portland shall have at all times power to regulate by ordinance street railroads, tramways and other railroads and the use of tracks and cars; to compel the owners of two or more such roads using or having the right to use the same streets, bridges or elevated roadways, for any distance not exceeding five blocks over said street, and over the entire length of bridges and elevated roadways to use the same tracks and to divide the cost of construction and cost of maintenance thereof equitably between them; to regulate the rates of speed and the use of streets by street railways and other railroads and to pass ordinances to protect the public from danger or inconvenience in the operation of such roads.

**Forfeiture of franchises not used.**

Section 106. All franchises or privileges heretofore granted by the city which are not in actual use or enjoyment or which the grantees thereof have not in good faith commenced to exercise are hereby declared forfeited and of no validity unless said grantees or their assigns shall within six months after this Charter takes effect, in good faith commence the exercise or enjoyment of such grant or franchise. Nothing in this Charter contained shall affect the validity of any franchise, right or privilege in actual use or enjoyment heretofore given or granted by any former or the present City of Portland or by the City of East Portland or by the City of Albina, and the same shall be and continue in force and effect as given or granted by said cities or either of them.

**Limitation of time of grant of franchise.**

Section 107. No franchise shall be granted for any extension over streets or public places of the city to any street railway company or to any one for its use for a longer period than the life of the franchises held, owned by and under which said company is operating which has the longest period to run and no such franchise shall be granted for a longer period than twenty-five years.

**Ordinance granting franchise, when in force; to be submitted to people on petition.**

Section 108. Any ordinance granting a franchise or granting authority to lease for a longer period than five years under and by virtue of the provisions of this Charter shall be in force from and after fifteen days from the date of its approval by the Mayor, or if vetoed by the Mayor then from and after fifteen days from the date of its passage by the Council over the veto of the Mayor unless within fifteen days a petition signed by a number of electors of the city equal to fifteen per cent. of the votes cast at the last preceding election shall have been filed with the Council asking that such ordinance be submitted for approval or rejection to the vote of the people.

In such case said ordinance shall be submitted at the next election to the vote of the electors of the city and unless the said ordinance shall at said election receive in its favor a majority of the votes cast thereon it shall have no force or effect for any purpose.

The Mayor shall, upon the conclusion of the canvass of the vote thereon (which canvass shall be made as in other elections) proclaim the result thereof and notify said grantee in writing and upon such proclamation said ordinance shall if approved have full force and effect as of the date of said proclamation, but if the same shall not be approved as aforesaid then the ordinance shall be null and void and of no force or effect.

Such petition shall be sufficient if it conform to the requirements of sections 53 and 54 of this Charter, as to the petition therein provided for.

**Executive Board to estimate value of franchises applied for.**

Section 109. Whenever an application is received for any franchise, privilege or right to be granted by ordinance for a specified time, the Council shall require from the Executive Board an estimate of the cash value of said franchise, privilege or right, or an estimate of what the Executive Board may consider fair compensation to the city based upon a percentage of the gross earnings from the use of such franchise, privilege or right and the said Executive Board shall submit said estimates in writing and the same shall be entered upon the minutes of the proceedings of the Council.

**Owners of franchises to file statement with Auditor.**

Section 110. Within ninety days after this Charter shall take effect the owner of any franchise shall file with the Auditor a full and correct statement of the franchises, rights and privileges owned by him or it, and shall designate the same by the numbers or titles of the ordinances by which such franchises were granted; the owner of every such franchise, and the grantee of franchises hereafter granted, on sale, transfer, mortgage or lease being made of such franchise, shall within five days thereafter file with the Auditor a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer or lease, certified and sworn to as correct by the grantee, in person if an individual, or by the president or secretary if a corporation, and every sale, transfer, mortgage or lease of such franchise, whether voluntary or involuntary, shall be deemed void and of no effect unless the grantee shall within five days after the same shall have been made, file such certified copy as required by this section. The Auditor shall file all such documents and shall make and keep an index of the same in a book to be kept by him for that purpose which book shall be a part of the public records of the city.

**Grantee to file acceptance.**

Section 111. Every grantee of any franchise, right or privilege, within thirty days after the ordinance granting the same shall be in force as provided in section 108 of this Article, shall file in the office of the Auditor a written acceptance of the same, and a failure on the part of the grantee to file such written acceptance within the time specified shall be deemed an abandonment and rejection of the rights and privileges conferred, and the ordinance granting the same shall thereupon be null and void; such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in the ordinance granting the same.

**Ordinance granting franchise to fix maximum fare: may provide that Council may change same.**

Section 112. Every grant of a franchise which provides for the

charging of rates, fares and charges shall contain a provision fixing the maximum rate of fares, rates and charges, which the grantee his, its or their successors or assigns can charge or collect for services rendered or performed by virtue of and during the life of such franchise and the operation of his or its plant or property thereunder; and said grant may also or in addition provide that the Council reserve the right to thereafter from time to time change, alter, regulate and fix fares, rates or charges which the grantee his, its or their successors or assigns, can charge or collect thereunder during the life of such grant or franchise.

## ARTICLE VI.

### Finance, Revenue and Taxation.

#### Fiscal year.

Section 113. The fiscal year of the city shall commence on the first day of January and end on the last day of December of each year.

#### Power to assess, levy and collect taxes; time of levy; maximum levy; apportionment; names of funds; additional $\frac{1}{2}$ mill for sinking fund.

Section 114. The Council has power and authority within the City of Portland to assess, levy and collect taxes upon all property, both real and personal, not exempt from taxation. On or before the first Monday in February in each year, or if the assessment upon which such levy is founded be not certified to the city officers prior to said day, then forthwith upon the execution of such certificate, the Council shall levy the amount of taxes necessary to provide for the payment during the fiscal year of all properly authorized demands upon the Treasury; but such levy, exclusive of the tax necessary to pay the interest accruing during the year on the bonded indebtedness of the city and exclusive of the sinking fund levy hereinafter provided, shall not exceed for all other purposes the rate of seven (7) mills on each dollar of valuation of the property assessed. On making the levy the Council shall apportion not to exceed  $1\frac{1}{2}$  mills for lighting the streets of the City of Portland to be known as the "Lighting Fund;" not to exceed  $2\frac{1}{4}$  mills for the maintenance of the fire department to be known as the "Fire Department Fund;" not to exceed 1 4-5 mills for the maintenance of the police department to be known as the "Police Department Fund;" not to exceed  $\frac{3}{4}$  of a mill for the maintenance, preservation and repair of the streets to be known as the "Street Repair Fund;" not to exceed 1-5 of a mill for the maintenance and support of a free library to be known as the "Public Library Fund;" not to exceed  $\frac{1}{2}$  of a mill for the maintenance, preservation and improvement of the parks, squares, and public grounds, and for the planting, preservation and maintenance of ornamental trees, shrubs and flowers in or upon the public streets and boulevards of the city to be known as the "Park Fund," and the balance

of the levy shall be apportioned to meet the payment of interest accruing on the bonded indebtedness of the city to be known as the "Bonded Indebtedness Interest Fund."

Provided, however, that if, in any year, the total assessment of property, subject to assessment in said city, be less than forty million dollars, then the Council may increase said rate of seven mills to such a rate as is estimated will produce \$280,000.00; and each of said apportionments of said funds shall be correspondingly increased.

The Council also has the power and authority at the same time the other levy or levies of taxes are made, as provided in this section, to levy a tax not exceeding  $\frac{1}{2}$  of a mill on each dollar valuation of the property in said city (in addition to said rate not exceeding seven mills) for the purpose of the purchase, payment or redemption of the bonded indebtedness of the city. Said taxes shall be apportioned to a fund to be known as the "Sinking Fund."

#### **Transferring of money from General Fund to other Funds.**

Section 115. It shall not be lawful to transfer money from any of the special funds designated in the next preceding section, nor to use the money in any one of said funds in payment of demands upon another fund, but the Council shall have power by ordinance receiving the affirmative vote of two-thirds of all the members constituting the Council, to transfer money from the General Fund to any particular fund, and the transfer of money from the General Fund to any of the funds designated in the next preceding section may be made as a temporary loan to said funds and in such case shall be in anticipation, and not in excess of revenues to be received from taxes for the current fiscal year, and the money so transferred may be returned to the General Fund by transfer when so received.

#### **Unused balances to go to General Fund: descriptions of funds.**

Section 116. The several funds in the Treasury authorized by law at the time this Charter takes effect, or provided for by this Charter, shall continue therein so long as there shall be occasion therefor, and the moneys in such funds, or which may belong thereto, shall not be used for any purpose other than that for which the same were raised, except as otherwise provided in this Charter.

When the necessity for maintaining any fund of the city has ceased to exist and a balance remains in such fund the Council shall so declare by ordinance and upon such declaration such balance shall be forthwith transferred to the General Fund.

The General Fund shall consist of moneys received into the Treasury and not specifically appropriated to any other fund.

The Lighting Fund shall consist of the moneys annually appor-

tioned to said fund by virtue of the tax provided for in this Charter and such other moneys as may be transferred to said fund by the Council and shall be expended in lighting the streets, avenues, alleys, places, courts, roads, highways, boulevards, parks and squares.

The Fire Department Fund shall consist of the moneys annually apportioned to said fund by virtue of the tax provided for in this Charter and such other moneys as may be transferred to said fund by the Council and shall be expended for the equipment and maintenance of the Fire Department.

The Police Department Fund shall consist of the moneys annually apportioned to said fund by virtue of the tax provided for in this Charter and such other moneys as may be transferred to said fund by the Council and shall be expended for the proper maintenance of the Police Department.

The Street Repair Fund shall consist of moneys annually apportioned to said fund by virtue of the tax provided for in this Charter and such other moneys as may be transferred to said fund by the Council and also of the moneys obtained from any licenses, taxes or fines, the proceeds of which are authorized and directed by this Charter or by the Council to be paid into the Street Repair Fund and said fund shall be expended for the maintenance, preservation and repair of the streets, elevated roadways and bridges of the city.

The Public Library Fund shall consist of the moneys annually apportioned to said fund by virtue of the tax provided for in this Charter and such moneys as may be transferred to said fund by the Council and shall be expended for the maintenance of Free Library and Reading Rooms and the purchase of books, journals and periodicals therefor, and also of all moneys or properties derived by gift, devise, bequest or otherwise for the purpose of the library.

The Park Fund shall consist of the moneys annually apportioned to said fund by virtue of the tax provided for in this Charter and also of all moneys coming into the treasury of the city, by donation or otherwise, for park purposes and such other moneys as may be transferred to said fund by the Council and shall be expended for the maintenance, preservation and improvement of the parks, squares and public grounds and for the planting, preservation and maintenance of ornamental trees, shrubs and flowers in or upon the public boulevards of the city.

The Bonded Indebtedness Interest Fund shall consist of the moneys annually apportioned to said fund and such other moneys as may be transferred to said fund by the Council and shall be expended in the payment of the interest annually accruing on the bonded indebtedness of the city.

The Sinking Fund shall consist of the moneys levied and apportioned to said fund by virtue of the tax provided therefor in this Charter

and of moneys transferred thereto by the Council. Such sinking fund shall be used for the purpose of the purchase, payment or redemption of the bonded indebtedness of the city and for no other purpose whatever.

**Appropriations; limitation on expenditure; no warrants without funds.**

Section 117. No money shall be expended or payment made from any fund of the city, except special assessment funds, until a specific appropriation shall be made therefor and an ordinance making an appropriation of money must not contain a provision on any other subject.

All demands for interest on the bonded indebtedness of the city and other fixed charges shall be paid as the same mature or in accordance with the terms of contract.

The Council may by ordinance limit the expenditure of every department of the city government, except interest charges and other charges fixed by contract or by this Charter, during each fiscal year, or during any month thereof, and any contracts made, debts created or liability incurred in excess of the amounts authorized by the Council, where the Council may so limit the expenditure of moneys, shall be null and void, and the Council shall not authorize any expenditure during any fiscal year, nor shall any liability or liabilities be incurred by or on account of the City of Portland, to be paid in any particular fiscal year (for the payment of which the approval of the Council shall be necessary) which singly or in the aggregate shall be in excess of the revenues received during such year applicable, or made applicable by transfer, to the payment of such liability or liabilities. And nothing contained in this Charter shall authorize the enforcement against or collection from said city, on account of any debt, contract or liability, of any sum in excess of the limitations prescribed in this section.

The city shall issue no warrants or other evidences of indebtedness, except under special assessment funds, unless there is money in the treasury duly appropriated and applicable to the payment of the same on presentation, and all evidences of indebtedness issued contrary to this provision shall be null and void. Any councilman voting to incur any liability or to create any debt in excess of the amount limited and authorized by law, shall be deemed guilty of malfeasance in office, and for such malfeasance such member of the Council may be removed from office.

**Issuance of bonds to fund indebtedness; form and terms of bond; procedure.**

Section 118. For the purpose of funding any bonded indebtedness of the City of Portland, or of the former City of East Portland, or of the former City of Albina, already matured or to mature in the future, the

City of Portland is authorized and empowered to issue and dispose of bonds of the city of the denominations of from one hundred dollars to one thousand dollars, as the purchaser may desire, under the seal of the City of Portland, with the interest coupons attached thereto with the signature of the Mayor engraved thereon, and having attached thereto the seal of said City of Portland, whereby the city shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds, at the expiration of twenty-five years from the date thereof, the sum named therein, in gold coin of the United States together with interest thereon in like coin, at the rate of four (4) per cent. per annum, payable half-yearly, as provided in said coupons. The total amount of such refunding bonds shall not exceed the face or par value of the bonds to be refunded, nor shall such refunding bonds be sold at private sale nor for less than par, and accrued interest from the date of issuance of said refunding bonds. Before such refunding bonds can be sold the Council shall cause to be inserted for two weeks in the city official newspaper and in at least one paper in New York City, making a specialty of such matters, an advertisement inviting sealed bids for the purchase of said refunding bonds. Such refunding bonds shall be sold only to the highest bidder. Among equal bidders preference in the sale and allotment shall be given to the bidders residing in the State of Oregon and subscribing for the smallest amounts. All bonds issued and disposed of under this Act shall be exempt from taxation either by this State or by any County or municipal corporation therein. Should there be any money derived from the sale of said refunding bonds in excess of the amount necessary to retire the outstanding bonds, or any other funds in the hands of the Treasurer applicable to such purpose it shall be the duty of the Auditor to advertise for two weeks inviting proposals for the surrender and redemption of any valid bonds of the city. After such advertisement the money applicable to such purpose in the hands of the Treasurer, or such portion thereof as may be required therefor, shall be awarded to the person or persons offering to surrender said bonds for the lowest price. Upon such award, when duly audited, the Treasurer shall upon the surrender of the bonds, pay the amount to the person or persons to whom the same was awarded and cancel the bonds so redeemed. No bid for the surrender of any of the bonds of the city shall be accepted which shall require a greater sum of money for their redemption than par and a ten per cent. premium.

#### Annulment of back taxes.

Section 119. All taxes except special assessments for local improvements levied by the City of Portland or by the former cities of East Portland, Albina or Sellwood for any year prior to 1895, which shall not be collected before July 1st, 1904, shall become void and no steps shall thereafter be taken for their collection.

## CHAPTER IV.

### Executive Department.

**ARTICLE 1. Generally.**

**ARTICLE 2. Mayor.**

**ARTICLE 3. Executive Board.**

- a. Fire.
- b. Police.
- c. Control of Streets.
- d. Lighting.
- e. Harbor.
- f. Pound.

**ARTICLE 4. Water Board.**

**ARTICLE 5. Board of Health.**

**ARTICLE 6. Library.**

**ARTICLE 7. Park Board.**

**ARTICLE 8. Other Officers.**

**ARTICLE 9. Civil Service.**

### ARTICLE 1.

Generally.

#### **Executive powers—where vested.**

Section 120. The executive power of the City of Portland shall be vested in a Mayor, and boards, departments and such municipal officers and employees as may be prescribed by this Charter or by ordinances not inconsistent with this Charter.

#### **Duties required of officers.**

Section 121. Any duty not inconsistent with this Charter may be required by ordinance of any officer mentioned in this Charter.

#### **Official books and papers property of the City and subject to examination.**

Section 122. The official books and papers of all the officers mentioned in this Charter are city property, and must be kept as such by such officers during their continuance in office and then delivered to their successors; and such books and papers may be inspected at any time by any member of the Council, by the Mayor or by the public.

#### **Boards and commissions to make rules and regulations—shall not exercise legislative powers.**

Section 123. All boards or commissions created by this Charter or which may be lawfully created hereafter, shall have power and are hereby authorized to pass and adopt such rules and regulations not inconsistent with this Charter and the laws and ordinances of the city.

as they may deem right and proper for the transaction of their business and for the government of their respective departments; and shall have power to prescribe and enforce such penalties as they may deem proper for the infraction of such rules and regulations by the employees and appointees of their respective departments. No such board or commission shall exercise any legislative functions or powers.

**Head of departments to attend Council or committee meetings.**

Section 124. It shall be the duty of the chief officer of each of the departments to attend meetings of the Council or any of its committees when specifically required by the Council or any of its committees so to do, and to answer to the best of his ability such questions relative to the affairs of the city under his management as may be put to him by any member of the Council, and for failure so to do such officer shall be subjected to such penalties as the Council may by ordinance prescribe.

**Mayor chairman of all boards and commissions.**

Section 125. The Mayor by virtue of his office shall be a member of and chairman of all boards or commissions created by this Charter, or which may hereafter be created.

**Auditor to serve as clerk of Council and of all boards and commissions, except Civil Service Commission.**

Section 126. The Auditor of the City of Portland, by virtue of his office, shall serve as Clerk of the Council and Clerk of all boards and commissions created by this Charter or hereafter created by ordinance, except the Civil Service Commission, and of any and all departments of the city, and when serving in any such capacity shall be known and designated as Auditor of the City of Portland.

**Duration of office where term is not specified.**

Section 127. All heads of departments, municipal officers not embraced in a department, or special commissioners or members of boards provided for in this Charter, where the term is not specified in this Charter, shall hold their offices until their successors are appointed or elected and qualified.

**No person to hold two offices yielding compensation—All officials, except women, to be registered voters.**

Section 128. No person shall at any time hold more than one office yielding pecuniary compensation under this Charter or under the Mayor, Council, or any of the departments of the city. All municipal officials, except women, shall be registered voters of the City of Portland.

**Mayor must approve bonds; same to be filed with Auditor.**

Section 129. The Mayor shall take and approve all official undertakings and bonds which the Charter or the ordinances of the city may require any officer to give as security for the faithful performance of

his duty, and any undertaking or bond which may be required of any contractor for the faithful performance of his contract, and when the Mayor approves any such undertaking or bond he must immediately file the same with the Auditor, except the undertaking of the Auditor, of which the Mayor himself shall be the custodian.

#### Council may require additional bond or undertaking.

Section 130. When under any of the provisions of this Charter, or of any ordinance, an official undertaking or bond shall be required from an officer, the Council may, by resolution, require an additional undertaking or bond, whenever, in the opinion of the Council such undertaking or bond or any surety thereto becomes insufficient; and such additional undertaking or bond shall also be required when a surety to a bond shall die or cease to be a resident of the city.

#### Terms of bonds and undertakings; justification of sureties.

Section 131. City officers shall not be accepted as surety for each other on official undertakings or bonds. Every such undertaking or bond shall contain a condition that the principal will faithfully perform all official duties then, or that may thereafter be, imposed upon or required of him by law, ordinance or this Charter, and that at the expiration of his term of office he will surrender to his successor all property, books, papers, and documents that may come into his possession as such officer. Such bond or undertaking when it is not that of a qualified surety company, must also be executed by two or more sureties who shall each justify in the amount required for said bond; but when the amount of the bond or undertaking is more than five thousand dollars, the sureties may become severally liable for portions of not less than twenty-five hundred dollars. When there are more than two sureties, such sureties may justify in an amount which in the aggregate shall equal double the amount of said bond.

#### Requirements of sureties on bonds.

Section 132. Every surety upon an official undertaking or bond, other than lawfully authorized surety companies, must make an affidavit, which shall be endorsed upon such undertaking or bond, that he is a resident and freeholder in the city, and worth in real property situated in the city, exclusive of incumbrances thereon, double the amount of his undertaking over and above all sums for which he is already liable or in any manner bound, whether as a principal, indorser or surety, and whether such prior obligation or liability be conditional or absolute, liquidated, or unliquidated, due or to become due. All persons offered as sureties on official bonds may be examined on oath as to their qualifications by the officer whose duty it is to approve the undertaking or bond. All bonds and undertakings provided for by this Charter, except that of City Treasurer, may be secured by individual sureties.

**Officer liable on bond for acts and omissions of deputies, clerks, etc., appointed by him.**

Section 133. Every officer shall be liable on his official undertaking or bond for the acts and omissions of his deputies, assistants, clerks, and employees, appointed by him, and of any and each of them, and every official undertaking or bond shall contain such a condition.

**Bonds may be required of subordinates.**

Section 134. Every board, department or officer may require of their deputies, clerks or employees bonds of indemnity with sufficient sureties for the faithful performance of their duties, the penalties in which shall be prescribed by ordinance.

**No officer to be interested in contracts for labor or material for City.**

Section 135. No councilman or other officer or employee of the city shall be or become directly or indirectly interested in or in the performance of any contract for the supply of labor or material to the city, or in the sale of any article, the price or consideration of which is payable from the city treasury, or in the purchase or lease of any real estate or other property belonging or to be taken by the city, or which shall be sold for taxes or assessments or by virtue of legal processes at the suit of the city. And in case any officer or employee of the city shall be interested personally as a promoter or stockholder or shareholder in any firm or corporation in any grant or privilege or franchise sought by himself or his associates or such firm or corporation from the City of Portland, or any public utility which is sought to be acquired or duplicated by the city or which is offered for sale or lease by the city, such officer or employee shall be incapacitated to take any part in the negotiations or proceedings connected with the giving or granting of such grant, privilege or franchise, but all such negotiations and proceedings and acts as would otherwise be conducted by such officer or employee shall be conducted and done on behalf of the City of Portland by such officer and employee as would have done and conducted the same in the absence of such interested officer and employee.

If any officer or person in this section designated shall violate the provisions of this section he shall forfeit his office and all such contracts, grants, privileges and franchises in the hands of others than a purchaser without notice for value shall be void.

**Boards, officers, etc., entitled to possession of records.**

Section 136. The departments, boards, commissioners and officers provided for in this Charter shall be entitled to the possession of all papers, books, documents, maps, plats, records and archives belonging to the city and in the possession or under the control of those respectively who are superseded in office under this Charter by such departments, boards, commissioners and officers.

**Books and records open to inspection; certified copies.**

Section 137. All books and records of every office and department shall be open to the inspection of any citizen at any time during business hours. Certified copies or extracts from said books and records shall be given by the officer having the same in custody to any person demanding the same, and paying or tendering ten cents a folio of one hundred words for such copies or extracts; but the records of the Police Department shall not be subject to such inspection unless permission be given by the Executive Board.

**Appointments to be in duplicate in writing: where filed.**

Section 138. All appointments of officers, deputies and clerks to be made under any provision of this Charter must be made in writing and in duplicate, authenticated by the person or persons, board or officer making the same. One of such duplicates must be filed with the Secretary of the Civil Service Commission and the other with the Auditor.

**Salaries to be full compensation.**

Section 139. The salaries provided in this Charter shall be in full compensation for all services rendered, and excepting such salaries, every officer shall pay all moneys coming into his hands as such officer, no matter from what source derived or received, into the treasury of the city within twenty-four hours after receipt of the same.

**Officer favoring bidder on contract guilty of malfeasance.**

Section 140. Any officer of the city, or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, material or supplies, at a higher price or rate than that proposed by any other bidder, or who shall favor one bidder over another, by giving or withholding information, or who shall wilfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kinds of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office.

**Limitation on power of board, commissioner or officer to contract debts.**

Section 141. No board, commission or other officer of the City of Portland, except as herein otherwise expressly provided, has power to contract any debt or assume any liability in any manner whatsoever by means of which the city may be called upon to pay any sum in excess of the amount specifically appropriated by the Council for the use of such board, commission, officer or department under their charge, and

all such indebtedness so contracted, and any such contracts entered into shall be null and void.

**Officers and employees, except members of boards and commissions, to devote entire time to service of City.**

Section 142. All city officers and employees, except the members of the Council and except the members of the various boards and commissions, shall devote their entire time during business hours to the interests of the city, except when excused as in this Charter provided.

**ARTICLE II.**

**Mayor.**

**Qualifications of Mayor; how chosen; term of office.**

Section 143. The chief executive officer of the city shall be the Mayor. He must have been a resident of the City of Portland for a period of five years next preceding his election or appointment to such office, and shall be at least twenty-five years of age. He shall be elected by the people and hold office for two years from July 1 succeeding his election and until his successor is elected and qualified.

**Salary of.**

Section 144. The salary of the Mayor shall be four thousand eight hundred dollars per annum, payable monthly, out of the General Fund in the same manner as other salaries are paid out.

**Mayor's Secretary—Salary of.**

Section 145. The Mayor may appoint a Secretary, who shall receive an annual salary of nine hundred dollars, payable monthly out of the General Fund as other salaries are paid. The Secretary shall hold his or her position at the pleasure of the Mayor and shall not be subject to the Civil Service provisions of this Charter.

**Removal of Mayor—proceedings thereon.**

Section 146. In case of inability or willful failure of the Mayor properly to perform his duties, or in case of the commission by him of a crime or misdemeanor involving moral turpitude, he may be removed from office by the Council. The proceedings upon such removal shall be public and the Mayor shall be given an opportunity to be heard in his defense in person or by counsel. Notice thereof together with a copy of the charges against him must be served upon him at least five days before the hearing, and an opportunity given him to be present in person and with his counsel and offer evidence in his own behalf and to be heard by himself and counsel. In such proceedings for removal the Council shall sit as a court of impeachment, and for that purpose shall have power to subpoena and compel attendance of witnesses, as well as the production of papers and things pertinent to said inquiry, under such penalties as it may prescribe not inconsistent with

this Charter. The President of the Council shall preside at all such hearings, and it shall require the affirmative vote of four-fifths of all the members of the Council to remove the Mayor.

**His duties—annual message.**

Section 147. The Mayor shall exercise a careful supervision over the general affairs of the city and its subordinate offices. It shall be his duty from time to time to make such recommendations to the Council as he may consider to be for the welfare of the city. On or before the fifth day of January in each year, he must communicate, by message, to the Council a general statement of the conditions and affairs of the city and submit therewith the annual budget of current expenses of the city.

**Same—shall preside over Council.**

Section 148. The Mayor shall preside over the Council when in session and shall have authority to preserve order, to enforce the rules of the Council, and to determine the order of business, subject to such rules, and subject to the right of appeal to the Council. He shall not be entitled to a vote except in case of a tie, when he shall have the casting vote. He shall perform such other duties and exercise such other authority as may be prescribed by this Charter or by any city ordinance not inconsistent therewith or any law of the United States or of the State of Oregon.

**Mayor may call on heads of departments for reports: his approval to resolutions or contracts requiring payment of money and ordinances.**

Section 149. Whenever he considers it advisable, the Mayor may call upon the heads of departments for reports relating to the subject matters under their control and management as he may require of them, and it shall be their duty to prepare and submit the same at once to the Mayor. No resolution or contract requiring the payment of money, nor any ordinance shall go into force or be of any effect until approved by the Mayor, except as herein provided.

**May separate items in ordinance appropriating money for approval or disapproval.**

Section 150. In case an ordinance or resolution of the Council shall appropriate money, the Mayor may approve one or more of the items in such ordinance or resolution and disapprove the others. In such case, those which he shall approve shall become effective, and those which he shall disapprove shall become effective only if again passed as provided in this Charter.

**Mayor to institute suits to cancel franchises: must investigate franchises and report same.**

Section 151. The Mayor may on his own motion and must upon a

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resolution passed by the Council directing him so to do, cause to be instituted on behalf of the city such actions or proceedings as may be necessary to revoke, cancel or annul all franchises that may have been granted by the city to any person, company or corporation, which have been forfeited in whole or in part or which for any reason may be irregular and void and not binding upon the city, and the City Attorney upon his demand must institute and prosecute the suits or actions required to enforce the provisions of this section. Each Mayor taking office under this Charter shall cause a careful investigation to be made of the exact condition of all franchises theretofore granted by the city, and of the respective rights and obligations of the parties, and the performance of the same, and shall report the results thereof in each of his annual reports or messages.

**May investigate offices and accounts, with power to administer oaths and examine individuals.**

Section 152. The Mayor may at any time, with or without notice, investigate in person or through one or more competent persons appointed by him for the purpose, the offices and accounts of any department of the city or of any employee, and the official acts and conduct of any official or employee in the administrative service of the city, and the money, securities and property belonging to the city in the possession or charge of such department, officers, or employee. For the purpose of ascertaining facts in connection with these examinations, the Mayor shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as he shall deem necessary and to compel the production of books, papers and other evidence. Wilfull false swearing in such investigations and examinations shall be perjury and punishable as such. The expense of any such investigation shall be paid out of the General Fund in the same manner as other claims against the city are paid. The result of all such examinations and investigations shall be reported to the Council and such report be filed with the Auditor.

**Mayor may suspend, pending investigation, any officer, except Councilman.**

Section 153. The Mayor shall have the power to suspend, pending an official investigation, any officer of the city, except councilmen, for any official defalcation or willful neglect of duty, or official misconduct.

**Mayor may call extra sessions of Council: notice thereof.**

Section 154. The Mayor may call extra sessions of the Council and shall communicate to it in writing the objects for which it has been convened; and its acts at such sessions shall be confined to such objects. Notice of any such extra session shall be given by publication in two regular issues of the city official newspaper.

**Mayor to fill offices not otherwise provided for.**

Section 155. The Mayor shall appoint all officers of the city whose election or appointment is not otherwise expressly provided for in this Charter, or by law.

**Mayor empowered to enforce order.**

Section 156. The Mayor shall take all proper measures for the preservation of public order and the suppression of all riots and unlawful assemblies, for which purpose he may use and command the police force. If the police force of the city is insufficient he shall call upon the Governor for military aid in the manner provided by law, so that such riots or unlawful assemblies may be promptly and effectively suppressed.

**Mayor to enforce contracts and agreements.**

Section 157. The Mayor shall see that all contracts and agreements made with the city and for its use and benefit are faithfully kept and performed, and to this end shall cause any legal or equitable proceedings to be instituted and prosecuted against all persons or corporations failing to fulfill their agreement with the city.

**Mayor to be notified of violation of contracts.**

Section 158. It shall be the duty of every officer and person in the employ or service of the city, when it shall come to his knowledge that any contract or agreement with the city, or with any officer or department thereof, or relating to the business of any officer, has been or is about to be violated, forthwith to report to the Mayor all the facts and information within his possession concerning such matter. A wilful failure so to do shall be sufficient cause for the removal of such officer or employee. The Mayor shall give a certificate on demand to any person reporting such facts and information that he has done so and such certificate shall be evidence in exoneration from a charge of neglect of duty in that behalf.

**Mayor may remove officer appointed and may prefer charges against any elected officer but Councilman.**

Section 159. Any officer appointed by the Mayor may be removed by him for cause which shall be stated in writing, which writing shall be filed with the Auditor and a copy given to such officer, but the same need not be made public unless by direction of the Mayor or upon request of the officer removed.

Any elected officer except Councilman may be removed by the Council upon charges preferred by the Mayor. Such charges shall be presented in writing to the Council and a copy furnished to such officer, who shall have the right to appear before the Council in person and by counsel and be heard in his defense. If by an affirmative vote of not less than two-thirds of the Council such charge be sustained the officer

shall be deemed removed and his place filled as in case of other vacancies. Otherwise the charges shall be dismissed.

### ARTICLE III.

#### Executive Board.

##### Executive Board, how constituted; term of office; qualification of members.

Section 160. There shall be a board to consist of ten members besides the Mayor, who shall constitute the General Executive Department of the City of Portland, to be known as the "Executive Board" of said city. The Mayor shall appoint the members of said Board, and each member shall hold office until he resigns, or until notice from the Mayor of his removal from said Board; but the term of office of each member of said Board shall expire with the expiration of the term of office of the Mayor appointing him. No person shall be eligible for appointment as a member of said Executive Board unless he is and has been for at least five years next preceding his appointment an elector of said city. No member of the Board, except the Mayor, shall hold any other office in the city government.

##### Same—meetings; quorum.

Section 161. The Executive Board shall hold regular meetings at such place as may be designated for its use by the Council at the City Hall at least twice each month to consider and take action upon such business as may come before it. Special meetings of the Board may be held at such times as the Mayor may determine, upon mailing notice to each member at least twenty-four hours prior to said meeting. All regular and special meetings of the Board shall be public and a majority of the Board shall constitute a quorum at such meetings.

##### Same—to require bond of contractors for protection of employees.

Section 162. All contractors shall, at the time of executing any contract for work to be done for the city, execute a bond to the satisfaction of the Executive Board, to be approved by the Mayor, in such sum as said Executive Board may deem adequate, not less than the contract price of such contract, payable to the City of Portland, and if executed by individual sureties such sureties shall justify in double the amount of said bond. Said bond shall be conditioned for the faithful performance of such contract, and, further, that the contractor will fully secure and pay the just claims of all laborers, material men and sub-contractors employed by him thereunder. Any such laborer, material man or sub-contractor whose just claims may not be satisfied shall have, and is hereby granted the right of action upon said bond in the name of the City of Portland and said action shall have the same force and effect as if this city was enforcing the covenants of such bond. All persons having such claims may join or be brought into one action

and the city shall also be made a party thereto to the end that all rights arising under one bond may be determined in one action.

**Qualifications of mechanics and laborers employed by the City; eight hours a day's work; minimum wages.**

Section 163. No mechanic or unskilled laborer not a citizen of the United States, who has not declared his intention to become such, and who has not resided within the city for one year next before entering thereon, shall be employed by the city. Eight hours shall constitute a day's work for all laborers, workmen and mechanics who may be employed by the city, and the minimum wages of unskilled manual laborers employed by the city shall be two dollars per day.

**Executive Board to make all purchases; pass on all bills; no purchase in excess of \$250.00 without bid.**

Section 164. The Executive Board shall make all purchases of supplies and materials used by the city and shall furnish all such materials and supplies required by any of the officers and for any department of the city, and said Board shall approve all proper bills for supplies or materials purchased, all claims of contractors for public work, and all pay-rolls and claims of all officers and persons in the employ of the Board, and when said demands are approved and audited as in this Charter provided, the Mayor and Auditor shall draw warrants on the Treasurer in payment thereof. But the Executive Board shall make no purchase of supplies and materials in excess of \$250.00 without first having duly advertised for the same in the city official newspaper.

**Authority of members of Executive Board.**

Section 165. No member of the Board shall have authority to act on behalf of the Board, except in pursuance of an order regularly made at a meeting thereof.

**Departments comprised in Executive Board.**

Section 166. The Executive Board shall have charge of the following departments:

The Fire Department,

The Police Department,

The Street Department,

Lighting the streets, public buildings and public places in the city,

The Harbor,

The Pound Department,

And such other departments and municipal offices as may be prescribed by ordinances not inconsistent with this Charter, and not otherwise provided for.

(a. Fire Department.)

**Fire Department: how organized; subject to Civil Service rules; authority vested in Executive Board.**

Section 167. The Fire Department of the City of Portland shall be appointed and organized, subject to the civil service rules of this Charter, by the first Executive Board appointed after this Charter takes effect; and thereafter, subject to the restrictions contained in this Charter, all the powers of said city connected with and incident to the appointment, discipline and government of its fire department shall be vested in the Executive Board of said city.

**Executive Board to organize fire department; appoint engineer and employees; power to make rules and regulations; Civil Service rules to apply to every officer and member of the department.**

Section 168. The Executive Board shall have the power and it is hereby made its duty to organize, govern and conduct a Fire Department for effective service within the City of Portland, and to that end may appoint a chief engineer and as many other officers and employees as in its opinion are necessary. It shall have the power to make all necessary or convenient rules and regulations for the organization and conduct of said department, and for receiving and hearing complaints against any members and for the removal or suspension of any member of said department. The civil service rules prescribed in this Charter shall apply to every officer and member of the department and shall govern the actions of the Executive Board in its organization and government of said department.

**Executive Board to care for property of fire department.**

Section 169. The Executive Board shall have the custody and management of all the public property, including the fire alarm telegraph, pertaining to the Fire Department. It shall have power and authority, subject to the limitations of the appropriations made, and expenditures authorized by the Council, to purchase and acquire all necessary apparatus, including fire-boats, engines, hose, hose carriages, horses and all other personal property which the exigencies of an efficient fire department may require. It shall have power and authority to sell and dispose at public sale under the provisions of this Charter relating to sales of public property of any portion of said personal property whenever the same is not required, or when it may be considered by the said Executive Board unfit for service in said department. The proceeds of any such sale shall be paid by the purchaser to the Treasurer of the city, who shall issue a proper receipt therefor, and all such moneys shall be credited to the Fire Department Fund of said city.

**Oath of members of fire department.**

Section 170. All officers and members of the Fire Department serving on full time and devoting their labor exclusively to the interests of

the city, before entering upon their duties, shall take an oath before the Auditor, similar in tenor and effect to that required of city officers, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of said Auditor.

#### **Chief Engineer; his duties.**

Section 171. The Chief Engineer shall be the executive officer of the said Fire Department. He shall devote his time and attention exclusively to its interests and shall engage in no other business. It is his duty and that of the assistant engineers to see that the rules and regulations of the Executive Board and the ordinances of the Council, are carried out, and also to attend to such duties as fire wardens as may be required of them, and to see that all laws, orders and regulations established to secure protection against fire are enforced. It shall also be the duty of the Chief Engineer to enforce the rules and regulations made from time to time to secure discipline in said Fire Department, and he shall have power to suspend any subordinate officer, member or employee for a violation of the same, as prescribed by the civil service rules, and shall forthwith report such violation in writing, with his reasons for suspension, to the Executive Board. Upon consideration of the matter, the Executive Board may approve the action of the Chief Engineer or may disapprove the same and reinstate such officer at once. The Executive Board, nevertheless, shall have power to suspend or remove any subordinate member or employee of the Fire Department in like manner as other appointing authorities under the civil service rules. The Chief Engineer shall diligently observe the condition of the apparatus and the workings of the department and report in writing thereon at least once a month to the Executive Board and make such recommendations and suggestions respecting the same as he may deem proper.

#### **May destroy buildings to check fire.**

Section 172. The Chief Engineer, or, in his absence, any Assistant Chief Engineer, may, during a conflagration, cause to be cut down, or otherwise removed, any buildings or structures for the purpose of checking the progress of such conflagration.

#### **Executive Board to render annual statement to Council; Council may require monthly estimates; and may limit expenses.**

Section 173. The Executive Board shall, on the first day of January of each year, report to the Council in detail the expenditures of the Fire Department and all outstanding demands of the preceding year, and also an estimate in detail of the amount of salaries and other necessary expenses of the Fire Department for the ensuing year. Said statement must show the number and class of employees in each branch of the department, the salaries to be paid and the number to be employed. Said statement shall also include a complete inventory of all the prop-

erty of the Fire Department under their charge; a record of all fire alarms and fires which have occurred in the city during the preceding year, together with the causes of all such fires, so far as the same shall have been ascertained; also the amount of losses caused by such fires and the insurance thereon. The Council shall thereafter make such appropriations as it may deem necessary within the limits herein elsewhere prescribed to meet the expenses of the department and may also limit the expenditure authorized during any month and may also require from the Executive Board monthly estimates in advance of the expenses of the Fire Department.

**Executive Board to examine and pass on payroll; cannot increase salary over amount in annual report without consent of Council.**

Section 174. The Executive Board shall examine and endorse its approval on all pay-rolls and demands of the Fire Department, and after being so approved, the Auditor shall examine and audit them, and if correct and within the appropriation and authorized expenditure, they shall be paid as other accounts are paid out of the city treasury. The Executive Board shall not, without the approval of the Council, increase the salary of any officer or employee of the Fire Department above the amount estimated and stated in its annual report.

**Executive Board in emergency to appoint temporary employees.**

Section 175. The Executive Board in case of any general conflagration or great emergency, may appoint such temporary employees as it may deem necessary and to whom civil service rules shall not apply.

**Disabled member of fire department to be paid pension.**

Section 176. When any member or officer of the Fire Department becomes badly disabled in consequence of and while in the performance of his official duties he may continue to draw his regular salary at the discretion of the Executive Board for a period not to exceed three months. If such disability incurred in consequence of and while in the performance of official duty shall appear to be of such character as permanently to unfit such member for active duty in the Fire Department, he may be allowed by the Executive Board a pension of ten dollars per month to be paid monthly as other salaries of the members of the Fire Department are paid, but if any such officers or members in such department on recovery from disability be assigned to duty and full pay, his pension shall cease.

**Assignments of disabled members.**

Section 177. Members and officers of a higher grade who have done faithful service and have been disabled so as to unfit them for serving in the position occupied when so disabled may be assigned to other duties suitable to their physical abilities and shall always have preference in such assignments.

**Leave of absence.**

Section 178. The Executive Board shall grant annually to every permanent member of the Fire Department leave of absence of not less than one week, and not more than two weeks, and no reduction of pay shall be made therefor; and to every extra man in the department there shall be granted annually one week's leave of absence without reduction of pay.

**(b. Police Department.)****Police Department; how organized; Executive Board to make rules and regulations.**

Section 179. The Police Department of the City of Portland shall be appointed and organized, subject to the civil service rules of this Charter, except as hereinafter provided, by the first Executive Board appointed after this Charter takes effect. To that end the Executive Board may make all necessary or convenient rules and regulations for the organization and conduct of the police force, for the care and management of the city prison, for receiving and hearing complaints against any member of said force, for the removal or suspension of any member of said force, and for the forfeiture of all or any portion of the wages that may be due any member of such force on account of misconduct or negligence in the discharge of his duties; all the powers of said city connected with and incident to the appointment, discipline and government of its police shall be vested in the Executive Board of the city, except as herein otherwise provided.

**Police Department to consist of chief, captains, etc. Oaths of officers.**

Section 180. The Police Department shall consist of a chief of police, and all necessary captains of police, detectives, patrolmen and clerks. Every officer and member of the police force, including private, special, temporary and substitute policemen, before entering upon the discharge of his duties, shall take an oath before the Auditor, similar in tenor and effect to that required of city officers, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the Auditor.

**Bond of Chief of Police.**

Section 181. The chief of police before entering upon the duties of his office shall file a bond in such sum as the Executive Board may require, not less than ten thousand dollars (\$10,000) nor more than fifty thousand dollars (\$50,000), with surety or sureties to be approved by the Mayor, that he will faithfully perform the duties of his office. The chief of police after having taken the oath of office and filed his bond, shall thereafter, under the direction of the Executive Board, have command and control of the police force of said city. The chief of police and his sureties shall be responsible to the city or any person aggrieved, the same as sheriffs and their sureties now are.

**Bonds of police officers; their duties.**

Section 182. Every captain of said police force shall give a bond in the sum of five thousand dollars (\$5,000); and every patrolman, special patrolman, detective and clerk in the sum of one thousand dollars (\$1,000), with sureties to the satisfaction of the Mayor, for the faithful discharge of his duties, and the payment of any damage that may be adjudged against him by any tribunal for the illegal arrest, imprisonment, or injury by him to any person. But the Council may by resolution, when it shall appear for the public interest, authorize the acceptance of personal sureties on such bonds. The chief of police is a peace officer, and must execute all process issued by the Municipal Judge or directed to him by any magistrate of this state in criminal matters; he may make arrests for breach of peace or commission of crime within the limits of the city, with or without a warrant, as peace officers do under the laws of this state; he must exercise a vigilant control over the peace and quiet of the city; he shall keep a watchful care to prevent fires, and exercise like care over all property of the city and report to the proper authorities all waste of water, stoppage of sewers, and all damage to any city property; he is the keeper of the city prison or house of correction; he must attend regularly upon the sittings of the municipal court and the meetings of the Council; he shall exercise such additional powers as may be conferred upon him by the ordinances of said city to enable him to carry out the objects and purposes of this Charter.

**Duties of Chief of Police; Executive Board may suspend members.**

Section 183. The captains of police, detectives and policemen shall possess like power and authority except as herein provided. The chief of police shall have control over captains, detectives, clerks and all policemen when they are upon duty, and shall see that the city ordinances, and the rules, orders and regulations for the government of the police force are observed and enforced, and he shall have power to suspend any subordinate officer, member or employee for a violation of the same, as prescribed by the civil service rules, and shall forthwith report such violation in writing, with his reasons for suspension, to the Executive Board. Upon consideration of the matter, the Executive Board may approve the action of the chief of police or may disapprove the same and reinstate such officer at once. The Executive Board, nevertheless, shall have power to suspend or remove any subordinate officer, member or employee of the Police Department in like manner as other appointing authorities under the civil service rules.

**Fees to be paid over to Treasurer; record of arrests.**

Section 184. The chief of police, or any officer of the police force, when acting under or enforcing any law or statute other than a city ordinance, is entitled to collect and receive the same fees and compensation as are allowed to a constable for like services, and he shall

pay the same over to the City Treasurer, as provided in the case of fees received by the Police Judge; but no fees shall be taxed against Multnomah County for services rendered by either chief of police or Police Judge. The chief of police shall keep in his office a book of arrests, in which shall be entered by him, or under his direction, the name of every person arrested, the cause of such arrest, by whom the arrest was made and the date thereof.

**Fees, rewards; employment of attorneys by members of police force; penalty for violation of provisions.**

Section 185. No member of the police force shall for his own benefit, under any pretense whatever, receive or share in any present, fee, gift, or emolument for public service, other than the regular salary and pay, except by the consent of the Executive Board and chief of police, publicly given, nor shall any member share in or receive any gift, fee or reward from any person who may become bail for any arrested, accused or convicted person, or who may become surety for any such, on appeal from or review of the judgment or decision of any court or magistrate, or any fee, gift or reward in any case from an attorney-at-law who may prosecute or defend any person arrested or prosecuted for any offense in Multnomah County; nor shall any member, directly or indirectly, interest himself or interfere in any manner whatever in the employment of any attorney to aid in the defense of any person arrested or accused; for any violation of either of the foregoing provisions the person so offending shall be immediately removed from the police force.

Upon the complaint of any person alleging a violation of this section the Executive Board shall summon the officer accused before it and shall hold a summary hearing with power to subpoena witnesses and to compel the production of all necessary evidence and if it find that a violation of this section has been committed by such officer he shall immediately be dismissed from the force and shall be ineligible for reappointment.

**Special patrolmen or policemen.**

Section 186. The Executive Board is hereby authorized to appoint persons of suitable character special patrolmen or policemen, but such special policemen shall not be paid by the city for their services as policemen.

**Examination of premises of pawnbroker, junk shop or second-hand dealer.**

Section 187. The chief of police may in writing empower any member of the police force, whenever such member is in search of property feloniously obtained, or in search of suspected offenders, to examine the books of any pawnbroker, or his business premises, or the business of any junk-shop, keeper or dealer in second-hand merchandise or in-

telligence office keeper, and such member of the force when thereunto authorized in writing as aforesaid shall be allowed to examine any property purporting to be pawned, pledged or deposited in the possession of whomsoever such property may be; but no such property shall be taken from the possessor thereof without due process or authority of law.

**Possession of burglar's tools a misdemeanor.**

Section 188. Any person found in said City of Portland or within four miles of the corporate limits thereof, having in his possession any burglar's tools or implements of any kind commonly used by burglars in breaking into or entering houses, shall be deemed guilty of a misdemeanor, and upon conviction thereof before the police court, or other court of said city having competent jurisdiction thereof, shall be fined in a sum not less than twenty-five nor more than one hundred dollars, or be imprisoned in the city jail for a period not less than ninety days nor more than twelve months, or both.

**Duties of police force.**

Section 189. The police force of the City of Portland shall at all times of the day and night within the boundaries of said city preserve the public peace, prevent crime, arrest offenders, protect rights of persons and property, guard the public health, preserve order, remove nuisances existing in streets, roads, public places and highways, report all leaks or other defects in water pipes and sewers, and street lights not burning to the proper authorities, provide a proper force at every fire in order that thereby the firemen and property may be protected, protect strangers and travelers at the steamboat and ship landings and railroad stations, and generally obey and enforce all ordinances of the City Council and criminal laws of the state and of the United States.

**Executive Board to examine and pass on payroll; cannot increase salary over amount in annual report without consent of Council.**

Section 190. The Executive Board shall examine and endorse its approval on all pay-rolls and demands of the Police Department, and after being so approved, the Auditor shall examine and audit them, and if correct and within the appropriation and authorized expenditure, they shall be paid as other accounts are paid out of the city treasury. The Executive Board shall not, without the approval of the Council, increase the salary of any officer or employee of the Police Department above the amount estimated and stated in its annual report.

**Executive Board to render annual statement to Council; Council may require monthly estimate, and may limit expenses.**

Section 191. The Executive Board shall on the first day of January of each year report in detail to the Council the expenditures of the Police Department and all outstanding demands of the preceding year,

and also an estimate in detail of the amount of salaries and other necessary expenses of the Police Department for the ensuing year. Said statement must show the number and class of employees in each branch of the department, the salaries to be paid and the number to be employed. The Council shall thereafter make such appropriations as it may deem necessary within the limits herein elsewhere prescribed to meet the expenses of the department and may also limit the expenditure authorized during any one month, and may also require from the Executive Board monthly estimates in advance of the expenses of the Police Department.

**Executive Board in emergency to appoint temporary employees.**

Section 192. The Executive Board in case of any mob, riot, pestilence, or on days of public demonstration may appoint such temporary policemen as it may deem necessary, who shall have all the powers and perform all the duties of regular policemen. Civil service rules shall not apply to such temporary policemen, nor shall they be required to furnish the bonds required of regular policemen. Such appointments shall not continue beyond the emergency.

**Executive Board to appoint eligibles from Civil Service list to fill vacancies.**

Section 193. The Executive Board may appoint a sufficient number of substitutes from the eligible list certified by the Civil Service Commission and under their rules, to fill all vacancies occasioned by the absence of any member of the force, who shall receive compensation only for the time they serve, and the amount of such compensation shall be deducted from the pay of the absent member.

**Gaming and lottery houses, obscene public amusements—Mayor and Executive Board to suppress.**

Section 194. Whenever the Mayor or the Executive Board ascertains or receives satisfactory information that any house, room or premises within such city or within four miles of the corporate limits thereof is being kept or used as a common gaming house or common gaming premises for playing therein for wager of money at a game of chance, or if the same is kept or used for any lewd or obscene public amusement or the deposit or sale of lottery tickets or policies, it shall be lawful for the Mayor or the Executive Board to authorize and direct the Chief of Police or any officer of the force to enter such house, room or premises and forthwith arrest all persons therein found offending against any law and to seize all instruments of gaming, lottery tickets and lottery policies, and bring the said articles into court.

**Same—Chief of Police to cause parties interested in to be arrested.**

Section 195. The Chief of Police shall cause such arrested persons to be vigorously prosecuted and such seized articles to be destroyed,

and the Executive Board shall cause the owner of such house, room or premises, his agent or representative to be notified in writing that such house, room or premises is being used for unlawful purposes, and it shall be the duty of the owner, agent, attorney or representative to cause the use of the premises for such unlawful purposes to cease.

**Executive Board successor to Police and Fire Department Relief Fund Board; assessments therefor.**

Section 196. The Executive Board is hereby constituted and appointed the successor of the Police and Fire Department Relief Fund Board and the powers and authority heretofore vested in said Board shall be vested in the Executive Board. Said Executive Board shall have power and is hereby authorized to assess upon each member of the Police and Fire Departments a sum to be deducted from the monthly pay of each member, not exceeding fifty cents per month; and the sum so fixed and deducted shall be paid into the City Treasury to the credit of the Police and Fire Departments Relief Fund and shall be used exclusively to relieve members of the Police and Fire Departments when sick or disabled from the performance of duty, for funeral expenses, relief of their families in case of death, or for pensions when honorably retired from the Police or Fire Department.

**Rewards, fees, etc., and proceeds of sale of unclaimed property to go into said Fund; investment thereof.**

Section 197. All fines and forfeitures from policemen or firemen, all rewards, fees, proceeds of gifts, and amount of compensation for any extraordinary service of any member of the police or fire force, all moneys arising from the sale of unclaimed property or money, after deducting all expenses incident thereto, shall be paid into the City Treasury to the credit of the Police and Fire Relief Fund. The Executive Board shall invest the same from time to time when there is a surplus in United States bonds, bonds of the State of Oregon, bonds of the City of Portland, or loan the same upon first mortgage with improved real estate security valued at three times the amount of the loan. In the event of such real estate loans, an appraisement of the property, signed by at least three members of the Executive Board and approved by the Mayor, shall be filed with the other papers of the loan. The City Treasurer shall be the custodian of all bonds and loans provided for in this section.

**Disabled members of Police and Fire Department: Pensions.**

Section 198. When any member or officer of the Police or Fire Department becomes badly disabled, in consequence of and while in the performance of his official duty, he may continue to draw his regular salary at the discretion of the Executive Board for a period not to exceed three months. If such disability shall appear to be of such a character as to permanently unfit such member from active

duty upon the police or fire force, he shall be allowed out of the Police or Fire Department Fund a pension of ten dollars (\$10) per month, to be paid monthly, as provided by this Charter for the salaries of the members of the Police and Fire Departments, but if any such member or members of said Departments on recovery from such disability, be assigned to duty and full pay, his pension shall cease. Members and officers of a higher grade, who have done faithful service and have been disabled so as to unfit them from serving in the position occupied when so disabled, may be assigned to other duties, not inconsistent with the Civil Service provisions of this Charter, suitable to their physical abilities, and shall have preference in such assignments. When such members of the Department, in consequence of such partial disability, have been assigned to any position having a rate of compensation lower than the one to which such member was entitled previous to his disability, such assignment shall not exclude him from receiving a pension, nor terminate the pension which may have been awarded him previously, provided that the total compensation shall not exceed full pay. The pension herein provided shall be set aside from and in addition to any allowance which may come from the Police and Fire Relief Fund heretofore provided. Any member or officer of a higher grade who has served continuously for the period of fifteen years, and who has reached the age of sixty years, may, on retirement from active service, be allowed by the Executive Board a pension of ten dollars (\$10) per month, to be paid as provided above for pensions on account of disability, so long as said pensioner remains a resident of the State of Oregon.

(c. Control of Streets.)

**Street Cleaning and Sprinkling Department—how organized—Executive Board to have charge of property.**

Section 199. The Street Cleaning and Sprinkling Department of the city shall be appointed and organized by the Executive Board. The Executive Board shall appoint a superintendent and all other laborers and employees, subject to the civil service rules of the Charter. The Board shall have the custody and management of all property belonging to said Department and, subject to the limitations of the appropriations made and expenditures authorized by the Council, shall have power and authority to purchase and acquire all necessary equipment for an efficient department. It shall have power to sell and dispose of by public auction all personal property whenever the same is not required, or when it may be considered by the said Executive Board as unfit for service. The proceeds of any such sale shall be paid by the purchaser to the Treasurer of the city, who shall issue a proper receipt therefor, and all such moneys shall be credited to the General Fund of the city.

**Executive Board to render annual statement to Council; Council may require monthly estimates, and may limit expenses.**

Section 200. The Executive Board shall on the first day of January

of each year report to the Council the expenditures in detail of the Street Cleaning and Sprinkling Department and all outstanding demands of the preceding year, and also an estimate in detail of the amount of salaries and other necessary expenses of the said Department for the ensuing year. Said statement must show the number and class of employees in each branch of the Department, the salaries to be paid and the number to be employed. The Council shall thereafter make such appropriations, within the limits herein elsewhere provided, as it may deem necessary to meet the expenses of the Department, and may also limit the expenditure authorized during any month and may also require from the Executive Board monthly estimates in advance of the expenses of said department.

**Executive Board to examine and pass on payroll; cannot increase salary over amount in annual report without consent of Council.**

Section 201. The Executive Board shall examine and endorse its approval on all pay-rolls and demands of the said Department, and after being so approved, the Auditor shall examine and audit them, and if correct and within the appropriation and authorized expenditure, they shall be paid as other demands are paid out of the city treasury. The Executive Board shall not increase the salary of any officer or employee of the Street Cleaning and Sprinkling Department above the amount estimated and stated in its annual report without the approval of the Council.

**Executive Board to have charge of public improvements.**

Section 202. The Executive Board shall have the exclusive management of the construction, reconstruction, maintenance and removal of all public and local improvements, including the grading, paving, curbing, or otherwise improving the streets, alleys, parks, boulevards and other public places of the city; all public, district and private sewers; of all sidewalks, crosswalks, bridges, elevated roadways, railways, viaducts, tunnels and other like structures; of all buildings to be constructed for or belonging to the city and the grounds surrounding the same; of all excavations of streets, alleys or other public places; the erection of poles and stringing of wires, whether done by the city, corporations or individuals.

**Executive Board to regulate franchise in streets, and operations thereon.**

Section 203. Whenever the Council shall by ordinance authorize or has heretofore authorized the erection, maintenance and removal of poles, wires and cables for telephones, telegraphs, electric lights, electric railways, electric motors or any other purpose, or the laying down of tracks and turntables for street cars and other railways or the laying and use of underground conduits or subways for the same, in, under, upon or over the streets, alleys or public parks and public

grounds of said city, or in, under, over and upon any lands owned by or under control of said city, whether they be inside the limits of said city or not, the Executive Board shall have the power and authority to regulate the manner of carrying out the provisions of any such ordinance, and may pursuant to ordinance require all wires and cables to be laid in such conduits or subways; and may pursuant to ordinance regulate the kind, manner and character of the rails to be used by the street railway companies and other railway companies within the limits of the city; and may require all companies building and operating such roads to conform to the street grades in all streets wherein the same are operated; and may fix and regulate, pursuant to the ordinances of the city, the opening of street surfaces and the places and manner of laying down and taking up all motor, gas, steam, sewer, and other pipes placed in the streets and other public places in said city.

**Executive Board to cause streets to be repaired.**

Section 204. The Executive Board shall have power and authority to make all ordinary repairs to streets and elevated roadways and bridges which may be considered advisable, and the expense thereof shall be paid out of the Street Repair Fund.

**Definition of street in this article.**

Section 205. The term "street," as used in this article, shall be construed to include any street, avenue, boulevard, alley, lane, bridge, bicycle path, road or public thoroughfare, and any land over which any right of way has been obtained, or granted, for any purpose of public travel.

(d. Lighting.)

**City may contract for lighting for five (5) years; may provide its own plant.**

Section 206. The City of Portland may contract for the lighting of public buildings, streets, avenues, parks, public grounds and places for any period not exceeding five (5) years. It shall have power and authority to procure lands, either within or without the city, and purchase or construct the necessary buildings, engines, dynamos and other machinery, tools, lamps, lines, conduits, poles, towers and other apparatus and appliances constituting a plant for lighting the city by electricity or by any other means or system, and if the Council deem it advisable, it may purchase towers, poles, wires, lamps and other appliances, and cause lines of wire to be constructed, the use of which it may let to any persons or corporation contracting to light the city. It shall also have power to lay pipes and conduits in the highways, alleys and public places for gas or electric light wires, and to erect in the highways, alleys and public places poles, towers or posts for wires or lamps, and to place, construct and maintain the necessary lines of

wires either below or above ground in the highways, alleys or public places.

#### **City may issue bonds to provide plant.**

Section 207. The Council for the purpose of providing for the construction of the public lighting plant as herein provided, may raise money by tax or issue bonds of the city as hereinafter provided, or may raise said funds by both tax and bonds, as to the Council of the city may seem meet and to the best interests of the city; but any money raised by taxes for such purposes shall be subject to the limitations in this Charter as to amount to be raised in any one year for lighting purposes. It shall also have power to issue bonds in like manner or raise moneys by tax for the purchase or construction of conduits, wires, posts, poles, towers, lamps and other apparatus and appliances for use by any party or parties contracting for the public lighting as herein provided. For the purposes aforesaid, the city is authorized to issue and dispose of bonds to the amount of \$300,000, of the denomination of from \$100 to \$1,000, as purchasers may desire, with interest coupons attached thereto, signed by the Mayor and countersigned by the Auditor, whereby the city shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay the bearer of each of the said bonds at the expiration of twenty-five (25) years from the date thereof, the sum named therein in gold coin of the United States, together with interest thereon in like coin, at the rate of four per centum per annum, payable half yearly, as provided in said coupons.

#### **Proceedings on contract for lighting.**

Section 208. If the Council shall determine to contract for lighting, it shall by ordinance direct the Executive Board to enter into a contract for lighting the city, either by electricity or by such other means as it may determine, for a period of time to be mentioned in such ordinance, not exceeding five (5) years. It shall thereupon be the duty of said Executive Board to prepare specifications and advertise for a period of not less than sixty (60) days for proposals, and enter into a contract in behalf of the city with the lowest responsible bidder, for lighting the city by such means as are specified in such ordinance; provided, it shall be competent for the Executive Board to contract for lighting the public buildings and any part or portion of the city by different means or systems.

#### **Procedure to acquire plant.**

Section 209. If the Council shall determine that it is advisable to establish a plant for public lighting, to be owned by the city, it may by ordinance direct said Executive Board to purchase the necessary lands, machinery, wires, poles, lamps, towers and other apparatus and appliances above mentioned the cost of which shall not exceed \$300,-

000.00. It shall thereupon be the duty of said Executive Board, without further approval or confirmation of their contracts by the Council, to carry into effect the authority thereby conferred and to make the necessary purchase of lands, machinery, engines, tools, lamps, apparatus and appliances and construct the buildings required, and cause to be constructed or laid all necessary conduits and lines of wire below ground, and to erect and construct all necessary poles, towers, posts, lines of wire above ground and other apparatus and appliances, which shall be necessary or requisite according to such system or systems as it may deem best for lighting the city.

#### **Special election to decide.**

Section 210. Before the Council shall direct said Executive Board to establish a plant as herein provided, it shall by resolution submit to the electors of the city, to be voted upon by said electors at a special election to be called for that purpose, the question as to whether the authority hereby conferred shall be exercised. The proposition shall be stated upon the ballots in the following form: "For a city lighting plant—Yes," "For a city lighting plant—No;" and any elector may vote for or against said proposition by marking a cross opposite said words "Yes" or "No," respectively. The votes upon said proposition and for and against the same, respectively, shall be certified, returned and canvassed in the manner now provided by this Charter for certifying, returning and canvassing votes cast for city officers. If a majority of the electors voting thereon in said city shall vote in favor of a city lighting plant, then the authority hereby conferred may be exercised; otherwise the same shall not be so exercised. Notice shall be given by the Auditor by publication in the city official newspaper of the election to vote upon said proposition at least thirty days before the election.

#### **City Electrician and employees.**

Section 211. The said Executive Board may, subject to the civil service rules of this Charter, employ an electrical engineer, who shall be known as the City Electrician, and also such other superintendent engineers, clerks, agents and subordinates under them as may be necessary to carry into effect the provisions of this Charter, and may regulate and define their duties and prescribe their compensation.

#### **Executive Board to have charge of City lighting.**

Section 212. The Executive Board shall have general supervision and management of all public lighting, and of any plant established by the city, as herein provided for that purpose, and all employees engaged in or about the construction or operation thereof, and shall make the necessary purchase of fuel, tools, supplies, materials, apparatus and appliances required in the operation and management of said plant, without further approval or confirmation of their contracts by the Council. The expenditures for the operation and management of said

plant shall not exceed in any one year the tax levied for that purpose.

**Limit of expenses for lighting.**

Section 213. No contract shall be let, nor any purchase be made of any lands or property requiring the payment of any money, nor shall any moneys be paid for public lighting, in excess of the tax authorized to be levied by this Charter for that purpose and of moneys raised by issuing bonds as herein provided.

**Executive Board to have supervision of wires, etc.**

Section 214. The Executive Board, subject to ordinance, shall have the supervision of the construction of all the electric lighting lines of wires in the city, whether owned by the city or by other parties, and of all connections made with any building or buildings, and no such wires or lines of wire shall be placed, laid, erected or constructed, nor shall any pole or post or conduit be laid, placed or constructed for such lines, nor any connection made with any building or buildings, except under such general regulations as it from time to time may adopt.

**Injuring or destroying lighting property an offense; penalty.**

Section 215. Any person who shall cut, break, injure or destroy any building, engine, dynamo or other machinery, or appliances, poles, posts, towers, lamps, wires or conduits erected, constructed or used for the public lighting of the city, whether owned by the corporation or by any party or parties contracting for the lighting of the city, shall be deemed guilty of a misdemeanor, and shall be punished therefor by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment not exceeding two years, or by both fine and imprisonment in the discretion of the court. The Circuit Court of the State of Oregon shall have jurisdiction of offenses under this section.

(e. Harbor.)

**Executive Board to have charge of water front: Harbor master.**

Section 216. All the wharves, water front and harbor within the City of Portland shall be under the management and control of the Executive Board subject to ordinance.

The first Executive Board appointed after this Charter takes effect shall appoint, subject to the Civil Service rules, a Harbor Master whose salary shall be fixed by the Council. The Executive Board may appoint subject to Civil Service rules such deputy harbor masters as the requirements of the city may demand, the number and compensation of whom shall be determined by the Council.

**Rules and regulations for water front; duties of harbor master.**

Section 217. The Executive Board may establish such rules and regulations, not inconsistent with this Charter and the ordinances of

the city, as it may deem right and proper for the control of the wharves and water front, and of the harbor and of the ships and vessels therein, and persons violating any of said rules and regulations shall be guilty of a misdemeanor and upon conviction thereof in the Municipal Court or, in case of an appeal therefrom, in the Circuit Court of the State of Oregon for Multnomah County, shall be punished by a fine not exceeding \$250.00, or by imprisonment for a period not exceeding ninety days, or by both such fine and imprisonment in the discretion of the Court. It shall be the duty of the Harbor Master and that of his deputies to see that the rules and regulations of the Executive Board, and the ordinances of the Council, are obeyed, and he shall report in writing each month to the Executive Board the condition of the harbor and all matters of interest pertaining thereto, together with any recommendations looking to the better care and improvement of the same.

#### Duties of harbor master.

Section 218. Said Harbor Master and said deputies shall be ex-officio members of the police force of the city and shall have the same power to make arrests for violation of ordinances of the city or of the laws of the State of Oregon as is possessed by other police officers of the city, and said Harbor Master and said deputies are specially charged with the duty of enforcing the laws of the State of Oregon relative to merchant seamen, and particularly the act of the Legislative Assembly of the State of Oregon filed in the office of the Secretary of State February 25th, 1889, entitled "An act for the prevention of and punishment for enticing or harboring seamen from ships and other vessels in the waters of the Columbia and Willamette rivers, or for arresting officers or seamen on such vessels, and to amend sections 1952 and 1953 of Hill's Annotated Laws of Oregon."

#### Bond of harbor master.

Section 219. The Harbor Master shall give a bond in the sum of \$5,000.00 and each deputy in the sum of \$1,000.00.

Said bonds shall contain the same terms as bonds required herein of Captains of Police and Patrolmen and the provision of this Charter covering bonds of Captains of Police and Patrolmen shall apply also to bonds of the Harbor Master and his deputies.

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(f. Pound.)

#### Pound master and deputies.

Section 220. The Executive Board shall, subject to the civil service rules, appoint a pound master, whose salary shall be fixed by the Council, and also such deputies and assistants as may be necessary for the efficient service of the department, whose number and compensation shall be determined by the Council.

**Rules and regulations; duty of Pound master.**

Section 221. The Executive Board shall establish such rules and regulations, not inconsistent with this Charter and ordinances of the city, as it may deem right and proper for the control of the Department.

It shall be the duty of the Pound Master and of that of his deputies and assistants to see that the rules and regulations of the Executive Board, and the city ordinances relating to the Pound Department are enforced and he shall report in writing each month to the Executive Board all matters of interest to the Department together with any recommendations he may have to make for the more efficient administration of the same.

**ARTICLE IV.****Water Board.****Water Board—how organized.**

Section 222. There shall be a Water Board to consist of four members besides the Mayor. The Mayor shall be chairman and the Auditor clerk of the Board. The members of the Board shall be appointed by the Mayor for terms of four years, except as herein otherwise provided, and may be removed by the Mayor at any time; but on removing any member of the Board the Mayor shall make a written report to the Council setting forth his reasons for such removal and the same shall be filed in the Auditor's office.

**Same.**

Section 223. Upon the taking effect of this Charter, the Mayor shall immediately constitute the Water Board by appointing two members to serve for two years and two members for four years subject to removal as above provided and as these terms expire thereafter the Mayor in office shall appoint two members to serve for four years to fill the place of those members whose terms have expired.

**Vacancy—how filled.**

Section 224. In case of a vacancy occurring in the Water Board from any cause the same shall be filled by appointment by the Mayor for the unexpired period of the term of the member whose place became vacant.

**Water Board to have charge of water plant; qualifications of members.**

Section 225. The said Board shall have charge of the water works and water plant of the city. No person shall be eligible for appointment as a member of said Board unless he is or has been, for at least five years next preceding his appointment, an elector of said city. No person shall be eligible for appointment who is directly or indirectly interested in furnishing water to the inhabitants of the city, or any part thereof, or to the city or any part thereof.

**City authorized to construct and operate water works.**

Section 226. The city is authorized and empowered to construct or purchase, keep, conduct and maintain water works and all necessary plants and facilities of a character and capacity sufficient to furnish the city and inhabitants thereof, as well as the places and people along or in the vicinity of the lines of pipes, conduits, or aqueducts constructed or used for such purpose with an abundance of good, pure, wholesome water for all uses and purposes necessary for the comfort, convenience and well being of the same, and to that end may acquire, by purchase or otherwise, and own and possess such real and personal property within and without the limits of the city as in the judgment of the Council may be deemed necessary and convenient, and for such purpose may also issue bonds and dispose of the same as hereinafter provided.

**City authorized to issue bonds.**

Section 227. For the purpose of carrying the provisions of this Charter relating to water works into effect, the city is authorized to issue and dispose of its bonds of the denomination of from \$100 to \$1,000, as the purchaser may desire, with the interest coupons attached thereto, signed by the Mayor, and countersigned by the Auditor, whereby the city shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of the said bonds, at the expiration of thirty years from the date thereof, the sum named therein in gold coin of the United States, together with interest thereon in like coin, at the rate of five per cent. per annum, payable half yearly, as provided in said coupons; but all bonds issued under the provisions of this section shall be issued in like manner and upon like conditions and subject to the restrictions and limitations which are elsewhere in this Charter prescribed, with reference to the issuance of bonds by the city. All bonds hereafter issued for the purpose of carrying out the provisions of this article, shall in all particulars, except as to date and dates of payment of principal and interest, conform to and have the same force and effect as bonds heretofore issued by the former Water Committee of the City of Portland.

**Water Committee to deliver property to Water Board.**

Section 228. When the Water Board is selected as in this Charter provided, the preceding Water Committee of the City of Portland shall turn over the city waterworks and plant to it and all property pertaining thereto, together with all the books, papers and accounts relating to the construction or purchase thereof, as the case may be, and the Water Board shall thereupon take possession and charge of and shall, subject to ordinance, manage, conduct and maintain the same, and in so doing it may in like manner alter, improve and extend such works from time to time, and may, pursuant to ordinance, purchase and

acquire on behalf of the City of Portland other waterworks and property, when the receipts from the waterworks are sufficient to defray the cost thereof and as the growth of the city and the wants and convenience of the inhabitants thereof may require.

#### **Meetings: Quorum.**

Section 229. The Water Board shall meet in the City of Portland for the transaction of business regularly once a month on such day and hour thereof as it may determine and in such place as the Council may provide, and otherwise as often as may be deemed necessary and convenient. Three members of the Water Board shall constitute a quorum for the transaction of business.

#### **Mayor to execute contracts and sign orders for money.**

Section 230. The Mayor shall execute all written contracts and sign all orders for the payment of money authorized thereby.

#### **Auditor Clerk of Water Board: his duties.**

Section 231. The Auditor is the clerical officer of said Water Board, and he shall make and keep a fair minute of its acts and doings; countersign all orders authorized by it and signed by the Mayor, for the payment of money, and attest all written contracts signed by the chairman on its behalf, keep its accounts, and have the custody of its books and papers.

#### **Payments: how made.**

Section 232. The Treasurer shall pay out money from the "water fund" on the order of the Mayor, countersigned by the Auditor, and not otherwise.

#### **Moneys: how handled.**

Section 233. All moneys collected or received by the Water Board for the use and consumption of water or otherwise shall be deposited with the Treasurer of the city, who shall give such bonds, in addition to the bonds hereinafter provided, as the Council may require, who shall keep the same separate and apart from the other funds of the city, in a fund to be known as the "Water Fund," and pay it out only on the order of the Mayor, countersigned by the Auditor, and to the holder of any overdue interest coupon of the bonds aforesaid upon the presentation and surrender thereof, and not otherwise.

#### **Water Board: its power and authority; employees; Civil Service rules.**

Section 234. The Water Board has power and authority:

1. To employ, hire and discharge from time to time, subject to the Civil Service rules of this Charter (excepting that the engineer and superintendent shall not be subject to Civil Service rules), all such agents, workmen, laborers and servants as it may deem necessary or

convenient in the conduct, extension, operation, and management of said waterworks and property.

2. Subject to ordinance to make all needful rules and regulations for the conduct and management of the same by the city and the inhabitants thereof.

3. To establish rates as hereinafter provided for the use and consumption of the water by the city and inhabitants thereof, including the people living along the line or in the vicinity of the works outside the city.

4. To provide for the payment of water rates monthly in advance and to shut off the water from any house, tenant or place for which the water rate is not duly paid or when any rule or regulation is disregarded or disobeyed.

5. To do any other act or make any other regulations necessary and convenient for the conduct of its business and the due execution of the power and authority given it by this Charter and not contrary to law.

#### **Estimate of expenses; water rates.**

Section 235. The Water Board shall, annually, before the first day of January, make a written estimate of the probable expense of maintaining and conducting the waterworks during the ensuing year, and also the cost of any contemplated alteration, improvement or extension thereof, and thereupon ascertain and prescribe, as nearly as it conveniently can, a water rate for such year which will insure a sufficient income from the sale of water to pay such expenses and costs, together with one year's interest on the bonds aforesaid then issued and outstanding, and also a sufficient amount to meet the interest on the bonds known as the East Side water bonds, which bonds are of a par value of \$250,000, and payment of which was assumed by the City of Portland under the act consolidating the cities of Portland, East Portland and Albina. Said estimate shall thereupon be submitted to the Council. The Council shall not increase the expenditures proposed, nor decrease the water rates set out therein, but it may reduce or omit any proposed items of expenditure or increase the rates to be paid for water. The Council shall by ordinance authorize the proposed expenditures to be paid only out of the water fund, and shall likewise fix the water rates for the ensuing year. In the case of any unforeseen or great emergency the Council may by ordinance at any time on recommendation of the Water Board authorize further expenditures to be made out of the "Water Fund."

#### **Water rates; how fixed; sinking fund, how used.**

Section 236. On and after January 1, 1905, a sum not exceeding two per cent, of the par value of the bonds issued under this Charter and under the act of 1885 and amendments thereto, which created the

water commission of the City of Portland, and said \$250,000 of the bonds known as the East Side water bonds, then outstanding, shall be annually estimated for in fixing the water rate, in addition to the expenses, cost and interest aforesaid, and be collected as a part thereof; which sum, when so collected, shall constitute a sinking fund to be used and applied under the direction of said Water Board either—

1. In the purchase of any valid bonds issued by or due from the city at a premium not to exceed ten per cent.
2. To purchase of any of the bonds issued under said act of 1885, or acts amendatory thereto, or this Charter, or of the issue known as the East Side water bonds, at a premium not to exceed 10 per cent.
3. The payment and redemption of any of the bonds issued under said act of 1885 and acts amendatory thereof, under this Charter, and said bonds known as the East Side water bonds, as may be selected by lot on the first day of January of any year at a premium not to exceed ten per centum; all bonds purchased or redeemed under the second and third subdivisions of this section shall forthwith be cancelled and deposited with the Auditor.

#### **Statement of receipts and disbursements to be published.**

Section 237. The Water Board shall cause a quarterly statement in detail of its receipts and disbursements to be made and signed by its chairman and filed with the Auditor, who shall preserve the same among the files of his office and shall cause the same to be published in the city official newspaper; and the Water Board shall cause to be made, filed and published as a part of its last quarterly report in each year an inventory or statement of the property, implements and material in its possession or control pertaining to the waterworks, together with the condition and approximate value thereof.

### **ARTICLE V.**

#### **Board of Health.**

##### **Board of Health; how constituted.**

Section 238. There shall be a Board of Health, which shall consist of three regularly certificated physicians who have been in active practice in this city for five years before the time of their appointment. No person shall be ineligible to serve thereon by reason of sex. They shall be appointed by the Mayor and shall have supervision of all matters appertaining to the sanitary condition of the city and its public institutions. The Chief of Police shall be a member of the Board by virtue of his office. The Mayor may remove any member at any time, but the grounds for such removal shall be stated to the Council in writing and filed with the Auditor.

The Council shall provide an office for the Board of Health.

**Same; term of office.**

Section 239. The members of the Board shall hold office for three years and serve without compensation. The terms of office shall be so arranged by lot that one of them shall go out of office each year. The Mayor shall be a member and chairman of such Board and the Auditor shall act as secretary of the Board.

**Same; meetings.**

Section 240. Meetings of the Health Board shall be held at least once a month, and whenever requested by the Mayor or two of its members.

**Same; to appoint City Physician and Health Officer.**

Section 241. Said Board shall appoint and remove at pleasure a City Physician who shall be a regularly certificated physician and whose duties shall be prescribed by the Council.

Said Board shall appoint a Health Officer who shall be the executive officer of the Board and see that the ordinances relating to the sanitary affairs of the city and the rules and regulations of the Board are enforced. Said Board shall appoint such other officers, agents and employees as may be necessary.

**Council to fix salaries.**

Section 242. The Council shall fix the salaries of all officers, agents and employees appointed by the Board of Health. Such compensation shall not exceed the salaries paid for similar services in private institutions of like character in the city.

**Powers of Health Board; rules and regulations.**

Section 243. The Board shall have the management and control of the City Hospitals, Ambulance Service, Recceiving Hospitals, and supervision of all matters pertaining to the preservation, promotion and protection of the lives and health of the inhabitants of the city. It may adopt rules and regulations, not inconsistent with this Charter or city ordinances, for determining the character of nuisances, and providing for their abatement, and the discharge of its functions in general. Such rules shall be kept on file in the Auditor's office.

It shall have the sanitary supervision of all institutions of the city, including jails, school-houses and all public buildings of the disposition of the dead; of the disposition of garbage, offal and other offensive substances.

It shall have exclusive control and disposition of all expenditures necessary in the institutions under its immediate control.

**Duties of Health Board.**

Section 244. The Board shall enforce all ordinances, rules and reg-

ulations which may be adopted for the carrying out and enforcement of a good sanitary condition in the city; for the protection of the public health; for determining the nature and character of nuisances and for their abatement; and for securing the proper registration of births, deaths and other statistical information. It shall from time to time submit to the Council a draft of such ordinances, rules and regulations as it may deem necessary to promote the objects mentioned in this section.

**Health Board to appoint officers and nurses; to control spread of diseases.**

Section 245. The Board of Health may appoint and remove at pleasure such officers and nurses and all assistants as may be necessary to maintain the efficiency of the hospitals and pest houses established by the Council and may cause to be removed thereto and kept therein any person affected with a contagious or infectious disease whenever necessary for the preservation of the public health.

The ratio of employees to inmates of any institution under the care of the Board shall not exceed that maintained by private institutions of like character in the city.

**Health Board to estimate expenditures; salaries.**

Section 246. The Board of Health shall on the 1st day of January in each year report to the Council, in detail, the expenditures of the Health Department and the outstanding bills of the preceding year and also an estimate, in detail, of the amount of salaries and other necessary expenses of the Health Department for the ensuing year. Such statement must show the number and class of employees in each branch of the department, the salaries to be paid and the number to be employed, and shall further set forth such statistics as it may consider to be of benefit. The Council shall thereafter make such appropriation as it may deem necessary within the limits herein elsewhere prescribed to meet the expenses of the Health Department and may also limit the expenditures authorized during any one month and may also require from the Health Department monthly estimates in advance of its expenses.

**ARTICLE VI.**

Library.

**Ordinance of July 18, 1901, ratified.**

Section 247. Ordinance No. 12302 enacted for the purpose of providing the inhabitants of the City of Portland with the free use of the library of the Library Association of Portland and approved by the Mayor on the 18th day of July, 1901, and all things done thereunder, are hereby ratified and confirmed.

**Agreement between City and Library Association authorized.**

Section 248. If Ordinance No. 12302 ceases to operate as set forth in section 249 of this Charter, the Library Association of Portland and the City of Portland, by ordinance of the Council duly passed, may enter into an agreement for a term not to exceed ten years for the purpose of establishing and maintaining a public library under the management and control of said association and the City of Portland, and said agreement shall further provide for the management and control of said public library by a board of directors, to be chosen in such number and manner, and for such terms as may be therein agreed upon. In the event of such an agreement being entered into, the provisions of this Charter, except section 253 thereof, shall be considered to be a part of the said agreement.

**Provisions for library when Ordinance 12302 or agreement ceases.**

Section 249. Whenever said Ordinance No. 12302, or a similar contract made under this Charter, ceases to operate by the terms thereof, or by mutual agreement of the Library Association and the city (which agreement the city through its Council is hereby authorized to enter into), or from any cause whatever, the following sections of this Charter shall at once be in force and effect:

**Council may levy tax.**

Section 250. The Council may, for the purpose of establishing and maintaining a public library and such branches thereof as the Library Board may from time to time establish, and for purchasing books, journals and periodicals, and for purchasing or leasing real and personal property, and for constructing such buildings as may be necessary, annually levy a tax of not to exceed one-fifth of one mill upon each dollar of the assessed value of the taxable property in the City of Portland. The proceeds of such tax shall be credited to the Library Fund.

**Library Fund.**

Section 251. All revenue from such tax, together with all money derived by gift, devise, bequest or otherwise, for the use of the library shall be paid into the city treasury and be designated as the Library Fund, and be applied exclusively to the purposes herein authorized. If such payment into the treasury shall be inconsistent with the terms or conditions of such gift, devise or bequest, the Library Board shall provide for the safety and preservation of the same and the application thereof to the use of the public library, in accordance with the terms and conditions of such gift, devise or bequest.

**Library property to belong to City.**

Section 252. The title to all property, real and personal, now owned or hereafter acquired by purchase, gift, devise, bequest or otherwise,

for the purposes of the public library, when not inconsistent with the terms of its acquisition, shall vest in the City of Portland, and in the name of the City of Portland may be sued for and defended by action at law or otherwise.

#### **Library Board—how constituted—term of office.**

Section 253. For the management and control of such library, there shall be a Library Board of six appointed by the Mayor, besides the Mayor. Such Board shall hold office for three years from the first day of September in the year of appointment, and until their successors are appointed; but upon their first appointment they shall divide themselves at their first meeting by lot into three classes, one-third for one year, one-third for two years, and one-third for three years, and their terms shall expire accordingly. All vacancies shall be immediately reported by the Board to the Mayor, and be filled by appointment in like manner, and, if in an unexpired term, for the residue of the term only. The Mayor may remove any member for misconduct or neglect of duty.

#### **Same—no compensation.**

Section 254. No person shall be ineligible to serve upon the Library Board by reason of sex. No compensation shall be paid or allowed any member.

#### **Powers of Library Board—quorum.**

Section 255. The Library Board shall have charge of the public library and the branches thereof, and of all real and personal property thereunto belonging, or that may be acquired by loan, purchase, gift, devise or otherwise, when not inconsistent with the terms and conditions of the gift, devise or bequest. It shall have exclusive control of all moneys appropriated for the Library Fund and the supervision, care and custody of the rooms or buildings constructed, leased or set apart for that purpose. It shall meet for business purposes at least once a month, and at such times as it may appoint in a place to be provided by the Council for the purpose. A majority of the Board shall constitute a quorum for the transaction of business. It shall elect a librarian and such assistants as may be necessary. The Auditor shall act as secretary and shall keep an account of all property, money, receipts and expenditures and a record of all proceedings.

#### **Rules and Regulations and other powers.**

Section 256. The Library Board, by a majority vote of all its members to be recorded in the minutes with the ayes and noes, shall have power—

1. To make and enforce all rules, regulations and by-laws necessary for the administration, government and protection of the public library and branches thereof, and all property belonging thereto, or that may be loaned thereto.

2. To administer any trust declared or created for such public library and branches thereof.
3. To define the powers and prescribe the duties of all officers; determine the number of and appoint necessary subordinate officers and assistants, and such appointments, except that of Librarian, shall be made subject to the Civil Service rules of this Charter.
4. To purchase books, journals, publications and other personal property.
5. To order the payment from the Library Fund of any authorized liability or expenditure, upon vouchers certified by the Mayor and Auditor.
6. To fix the salaries of the librarian and his assistants, and, with the approval of the Council, expressed by ordinance, to erect and equip such building or buildings, room or rooms, as may be necessary for the public library and branches thereof.
7. To establish when authorized by ordinance such branches of the public library as the growth of the city may from time to time require.
8. To extend the privileges and use of the public library and its branches to non-residents, upon such terms and conditions as the Board may prescribe.

**Library Board to make report and estimate of expenses.**

Section 257. On or before the 1st day of January of each year, the said Library Board shall make a report to the Council, stating the condition of its trust, the various sums of money received from the Library Fund, and all other sources, and how much money has been expended, the number of books and periodicals on hand, the number added during the year, the number lost and missing, the number of books loaned out, and the general character of such books, with such other statistics, information and suggestions as it may deem of general interest. In such report the Board shall also make an estimate for the ensuing year of the sums of money required for operating expenses, purchase of books and periodicals, purchase of supplies, repairs and alterations, and for such other ordinary and extraordinary expenses as will aid the Council to determine the proper amount of the levy provided for in section 259 of this Charter, and in making such estimate it shall be stated what sums of money will probably be received from trust funds, which by the terms of the trust, are devoted to some particular part of the library expenses.

**Council may provide building for library.**

Section 258. The Council shall have power to appropriate and authorize the use, either in whole or in part, of any real estate belonging to the city for the purpose of erecting and maintaining a building or buildings thereon to be used for the public library or branches

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thereof, and may appropriate the whole or any portion of any public building belonging to the city for such use.

## ARTICLE VII.

### Park Board.

#### Park Board—how constituted.

Section 259. There shall be a Park Board to consist of four members besides the Mayor, and no person shall be ineligible as a member by reason of sex. The Mayor shall be chairman, and the Auditor, clerk of the Board. The members of the Board shall be appointed by the Mayor for terms of four years, except as herein otherwise provided, and may be removed by the Mayor at any time; but on removing any member of the Board, the Mayor shall make a written report to the Council, setting forth his reasons for such removal, and the same shall be filed in the Auditor's office.

Upon the taking effect of this Charter, the Mayor shall immediately constitute the Park Board by appointing two members to serve for two years, and two members for four years, subject to removal as above provided, and, as these terms expire, thereafter the Mayor in office shall appoint two members to serve for four years to fill the places of those members whose terms have expired.

#### Vacancies—how filled.

Section 260. In case of a vacancy occurring in the Park Board from any cause the same shall be filled by appointment by the Mayor for the unexpired period of the term of the member whose place became vacant.

#### Powers of Park Board—qualifications of members.

Section 261. The said Board, except as herein otherwise provided, shall have the general management and supervision of all parks, squares, openings and public grounds surrounding public buildings now owned or hereafter acquired by the city, and also shall have power to regulate and control the planting, trimming, growing, use, preservation and maintenance of all shade or ornamental trees, shrubs, plants or flowers in, upon or over any street, boulevard, path or sidewalk of the city. No person shall be eligible for appointment as a member of said Board unless he or she has been a resident of the city for at least five years next preceding the appointment.

#### Rules and regulations.

Section 262. The said Board may adopt such rules and regulations for the use, management and supervision of the parks, squares, openings, public grounds, and grounds surrounding public buildings, bath houses or other places of recreation, now belonging to the city or hereafter acquired by it, as to the Board may seem reasonable and neces-

sary; such rules and regulations not to be inconsistent with the provisions of this Charter or the city ordinances.

#### **Restriction on exhibitions of works of art.**

Section 263. No work of art shall be placed in any park, or in any other public ground which is subject to the supervision of the Park Board, without its permission.

#### **Park Fund.**

Section 264. All moneys, donations, devises, bequests and legacies received or donated to the city for park and pleasure purposes shall be taken up, held and accounted for by the city separately under the name of the Park Fund.

#### **Employees to give bonds.**

Section 265. All employees acting in any fiduciary capacity in connection with the parks or pleasure grounds shall be placed under proper bonds.

#### **Park Board to hire employees; Civil Service rules.**

Section 266. The Park Board has power and authority to employ, hire and discharge from time to time, subject to the civil service rules of this Charter (except that the parkkeeper shall not be subject to civil service rules), all such workmen and laborers as it may deem necessary to the proper conduct and management of the public places under its control.

#### **Park Board to make report and estimates of expenses; appropriations; limitation on expenditure.**

Section 267. The Park Board shall on the first day of January of each year report to the Council in detail, the expenditures of the Board and all outstanding demands of the preceding year, and also an estimate in detail of the amount of salaries and other necessary expenses of the said Board for the ensuing year. Said statement must show the number and class of employees, the salaries to be paid and the number to be employed. The Council thereafter shall make such appropriation, within the limits herein elsewhere provided, as it may deem necessary to meet the expenses of the Board, and may also limit the expenditure authorized during any month, and may also require from the Park Board monthly estimates in advance of the expenses of said Board. A failure so to furnish such estimates, when required, shall be sufficient grounds for the removal of one or all the members of the Board.

### **ARTICLE VIII.**

#### **Other Officers.**

#### **Boards and Commissions to serve without pay.**

Section 268. No member of any board or commission shall receive any salary or other compensation for his services as such.

**Auditor.****Auditor—qualifications of; term of office.**

Section 269. There shall be an Auditor of the City of Portland who shall have been a duly qualified voter of the city for at least five years next preceding his election; he shall be elected by the people and hold office for two years from the first day of July next succeeding his election, and until his successor is elected or appointed and has qualified.

**Salary of Auditor—bond.**

Section 270. The salary of the Auditor shall be three thousand dollars per annum, payable monthly out of the general fund, in the same manner as other salaries are paid. He shall give bonds for the faithful performance of his duties in such sum as the Council may determine.

**Auditor's deputies—Civil Service rules; compensation of deputies and clerks.**

Section 271. The Auditor may appoint, subject to the Civil Service rules of this Charter, one chief deputy and such other deputies and clerks as the Council may authorize. Said deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid such deputies and clerks shall be determined by the Council.

**Auditor and deputies may administer oaths.**

Section 272. The Auditor and each of his deputies is authorized to administer an oath and certify any acknowledgement authorized or required to be taken by any city ordinance or law of this State, and he may require any person presenting for settlement an account or claim of any kind against the city to be sworn before him touching such account or claim, and when so sworn to answer orally as to any facts relative to the merits or justice of such account or claim.

**Duties of Auditor.**

Section 273. The Auditor is the accounting and clerical officer of the city. He shall be in personal attendance at his office daily during office hours. He shall receive and preserve in his office all accounts, books, vouchers, documents and papers relating to the accounts and contracts of the city, its debts, revenues, and other financial affairs. He shall give information as to the exact condition of the treasury and of every appropriation and fund thereof upon demand of the Mayor, the Council or any committee thereof, the Executive Board or any committee thereof, or any board or commission created by this Charter. He shall be the custodian of the city seal and shall perform such other duties as this Charter or the Council may direct.

**Auditor to keep account of moneys; audit all demands.**

Section 274. The Auditor shall keep an account of all moneys paid into and out of the treasury. Any ordinance or resolution providing for the payment of any demand out of the treasury, whether from public funds or from private funds deposited therein, shall always be construed as requiring the auditing of such demand by the Auditor before the same be paid.

**Auditor to keep record of demands audited.**

Section 275. The Auditor shall number and keep an official record of all demands audited by him, showing the number, date, amount, name of the original holder, and against what appropriation drawn and out of what fund payable.

**Auditor to approve no demand not allowed by proper authority.**

Section 276. The Auditor shall approve no demand unless the same has been allowed by the officer, board, department, or committee required to act thereon.

**Allowance of certain demands prohibited.**

Section 277. No demand shall be allowed by the Auditor in favor of any corporation or person indebted to the city in any manner, except for taxes not delinquent, without first deducting the amount of any indebtedness then due of which he has notice, nor in favor of any person having the collection, custody or disbursement of public funds, unless his account has been presented, passed, approved and allowed as herein required, nor in favor of any officer who has neglected to make his official returns or reports in the manner and at the time required by law, ordinance or the regulations of the Council; nor in favor of any officer who has neglected or refused to comply with any of the provisions of law regulating his duties; nor in favor of any officer or employee for the time he shall have absented himself without legal cause or duly granted leave of absence from the duties of his office during office hours, and the Auditor must always examine on oath any person receiving a salary from the city touching such absence.

**Demands, how presented and audited.**

Section 278. Every demand upon the Treasurer except the salary of the Auditor must before it can be paid be presented to the Auditor, who shall satisfy himself whether the money is legally due, and its payment authorized by law, and against what appropriation and out of what fund it is payable. If he allows it he shall endorse upon it the word "Allowed," with the name of the fund out of which it is payable and the date of such allowance, and sign his name thereto, but if he disallow the same he shall endorse upon it the word "Rejected." No demand shall be approved, allowed, audited or paid unless it specify each several item, date, and amount composing it, and have endorsed thereon the legal authority for its payment.

**Auditor to keep register of warrants; shall not give preferences.**

Section 279. The Auditor shall keep a register of warrants, showing the funds upon which they are drawn, the number, in whose favor, for what service, and the appropriation applicable to the payment thereof. He shall not allow any demand out of its order, nor give priority to one demand over another drawn on the same specific fund, except that when liability for any claim presented is not sufficiently apparent to him, he may delay the payment thereof until such liability shall be determined.

**Warrants—How drawn for audited demands; limitation on issue.**

Section 280. When any demand has been duly approved and audited, the Mayor and Auditor shall draw warrants on the Treasurer therefor. Such warrants must be drawn on the fund appropriated therefor and be signed by the Mayor and attested by the Auditor; but no warrant, except such as are issued upon funds created by special assessments, or warrants issued in settlement of judgments of the courts, shall be drawn, signed by the Mayor or attested by the Auditor until the money for the payment thereof is in the hands of the City Treasurer and appropriated to the payment thereof upon presentation of same.

**Auditor to issue licenses.**

Section 281. The Auditor must issue all licenses authorized by ordinance upon the delivery to him of the receipt of the Treasurer for the amount of money required for such license.

**Auditor to keep records of Council.**

Section 282. As Clerk of the Council, the Auditor shall keep a correct journal of its proceedings, and shall file and keep all books, papers, and maps connected with the business of the Council.

**Certified copies—fees therefor.**

Section 283. The Auditor shall make certified copies of any papers or maps or transcripts of any records kept in his office when so required, upon the payment of his fees therefor, and such fees shall be deposited with the City Treasurer for the credit of the general fund. The fees charged shall be the same as those provided for in this Charter or by ordinance, and no charge shall be made for any copies, transcripts, or certificates required or demanded by any official or board when such are needed for the official business of the city.

**Auditor shall keep present ownership book.**

Section 284. The Auditor shall keep a record of ownership of real property within the limits of the City of Portland, and correct said record as changes of ownership shall be recorded in the office of the County Clerk for the County of Multnomah, and he shall also keep a

record of all property owned by the city and the income derived therefrom.

**Auditor to receive estimates of expenses; Mayor to prepare budget; Council to levy tax.**

Section 285. On or before the first day of January in each year the several officers, commissioners, boards and departments of the city, except as in this Charter otherwise provided, shall prepare and file with the Auditor an estimate of the expenses and disbursements for the ensuing year of their respective offices, commissions, boards and departments. From such estimates the Mayor shall prepare his annual budget for the current expenses of the ensuing year and present the same with his annual message to the Council. When said budget has been received, the Council, by ordinance, shall estimate and declare the necessary amount of money to be raised by the general taxes and shall levy the necessary tax therefor which shall be certified by the Auditor to the County Clerk of Multnomah County, who shall extend the said tax in an appropriate column upon the county tax roll. The said tax shall be collected by the officer collecting the county tax and shall be turned over by him to the City Treasurer within ten days after he has collected the same, with a statement of the amount of money so collected and the year or years for which the amount was collected. The tax levy as certified up to the County Clerk shall be in one sum and shall be entered in a column headed "City of Portland Tax." Neither the Sheriff nor the Tax Collector of Multnomah County nor said county shall receive any fees or compensation for collecting such taxes.

**Auditor to make semi-annual reports.**

Section 286. The Auditor shall make a semi-annual statement to the Council showing the receipts and disbursements and the state of each particular fund at the close of business on the 30th day of June each year, and shall also prepare and transmit to the Council on or before the 5th day of January in each year a report of the financial transactions of the city during the calendar year ending the 31st day of December next preceding, and of its financial condition at the close of business on said 31st day of December. The report shall contain an accurate statement in summarized form and also in detail of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a detailed statement of the debt of said city, of the purposes for which such debt had been incurred, and of the property of said city, and of the accounts of said city with grantees of franchises, and also a statement showing all franchises then in effect, and the purposes for which the franchises were granted and the names of the present owner of such franchises.

As a part of each annual statement of the Auditor, he shall include therein an inventory of all the public property of the city, together with its condition and approximate value, and shall also include therein a summary of the assets and liabilities of the city.

**Auditor to keep record of franchises; holders of franchises to make reports.**

Section 287. The Auditor shall keep a separate record for each grantee of a franchise from the city rendering a service to be paid for wholly or in part by users of such service, which record shall show in the case of each such grantee:

1. The true and entire cost of construction, of equipment, of maintenance, and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in, the number and par value of shares, the amount and character of indebtedness, if any; the rate of taxes, the dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, for wear and tear or depreciation, all amounts and sources of income.
2. The amount collected annually from the city treasury and the character and extent of the service rendered therefor to the city.
3. The amount collected annually from other users of the service and the character and extent of the service rendered therefor to them. Such books of record shall be open to public examination at any time during the business hours of the Auditor's office. Such information, in addition to any further data which may be required by the Auditor, under this Charter, shall be furnished by the grantees or holders of such franchises to the Auditor upon his request, and at such grantees' own cost and expense.
4. In case any grantee or holder of a franchise fails or refuses to furnish such information when requested so to do, on petition being presented on behalf of the city to the Circuit Court of the State of Oregon for Multnomah County, such court shall have jurisdiction to compel such grantee or owner to furnish such information and tax the costs of such application against the defendant in such proceeding and in addition may impose a fine of not less than \$25.00 or more than \$500.00 for every such offense. All fines collected under this section shall be paid into the General Fund. The procedure on such application shall be as far as possible analogous to that on mandamus.

**Treasurer.**

**Treasurer—qualifications; term of office.**

Section 288. There shall be a Treasurer of the City of Portland, who shall have been a duly qualified voter of said city for at least five years next preceding his election. He shall be elected by the people and hold office for two years from the first day of July next succeeding his election, and until his successor is elected or appointed and has qualified.

**Salary of Treasurer—his bond.**

Section 289. He shall receive an annual salary of twenty-four hundred dollars per annum, payable monthly out of the general fund in the

same manner as other salaries are paid. He shall give a bond of some surety company or companies to be approved by the Mayor in the sum of one hundred thousand dollars to secure the faithful performance of his duties.

**Treasurer may appoint deputy; Civil Service rules; Council to fix salaries of deputy and clerks.**

Section 290. The Treasurer may appoint one deputy to continue in office during his pleasure and, subject to the Civil Service rules, such clerks as may be necessary. The salary of said deputy and the number and compensation of said clerks shall be fixed by the Council.

**Duties of Treasurer.**

Section 291. The Treasurer is receiver of taxes, and shall receive and keep all moneys that shall come to the city by taxation or otherwise, and pay out the same upon the warrant of the Mayor, attested by the Auditor. He must keep an account with the general fund and a separate account with each special fund that may be raised for any specific object, and when a warrant is drawn on any particular fund it shall be paid out of such fund only. The Treasurer shall make a semi-annual statement to the Council, showing the receipts and disbursements and the state of each particular fund at the close of business on the 30th day of June of each year, and shall also prepare and transmit to the Council on or before the 5th day of January of each year a report of the receipts and disbursements of the city for the calendar year ending on the 31st day of December next preceding and the state of each fund at the close of business on said 31st day of December, and shall file the same with the Auditor. Such report must be published by the Auditor in such manner as may be prescribed by ordinance.

**Treasurer not to lend city money.**

Section 292. Except as hereinafter provided, the Treasurer shall not lend, use nor deposit any of the moneys received by him as such Treasurer or any part thereof, to or with any bank, banker, corporation or person, nor shall he pay out any part of such moneys nor allow the same to pass out of his personal custody, except as authorized by law or this Charter. If the Treasurer shall violate any of the provisions of this section he shall be deemed guilty of misconduct in office and be liable to removal therefrom and be proceeded against accordingly.

**Banks may apply for deposits.**

Section 293. Any bank in the City of Portland with a paid-up capital of two hundred and fifty thousand dollars, which desires to receive on deposit a portion or all of the city funds, shall, prior to the first Monday in April in each year, file with the City Treasurer an application for such deposits. Such application shall state:

First—The amount and character of security the bank has to offer; and

Second—The rates of interest the bank will pay on open account and on time certificates of deposit. The Treasurer shall present such applications, together with his recommendations, to the Council. The Council shall thereupon determine what bank or banks shall receive the city funds and be designated as depositaries of the city. But the value of the securities offered by any bank must be at all times twice the amount of money on deposit with such bank, and the Council shall not consider as security an indemnity bond signed by any individual, firm or corporation other than a surety company authorized to do business in the State of Oregon.

#### Treasurer to deposit in banks designated by Council.

Section 294. After the Council designates what bank or banks are city depositaries all the funds then in the hands of the City Treasurer, or thereafter received by him, shall be deposited in the banks so designated, in the name of the City of Portland, and subject to the order of the City Treasurer. All interest upon city funds shall be paid to the city.

#### Treasurer to make monthly statements of deposits.

Section 295. The Treasurer shall make monthly statements of the amount of moneys deposited, as hereinbefore provided, giving separately the amounts deposited on open account and in interest-bearing certificates in each bank, and shall file such statements with the Auditor, who shall present the same to the Council at its next regular meeting thereafter. The Treasurer shall furnish a copy of such report, together with a statement of the amount and kind of security pledged for such deposits, to any newspaper applying therefor.

#### Liability of Treasurer for deposited funds.

Section 296. When the funds in the hands of the Treasurer shall be deposited, as hereinbefore provided, such Treasurer shall be exempt from all liability therefor by reason of the loss of any such deposited funds, from the failure, bankruptcy or any other acts of any such banks or bankers, to the extent and amount of such funds in the hands of such bank or bankers at the time of such failure or bankruptcy, but for no cause shall he be discharged from his liability to the city for the care and custody of the securities deposited with him by the banks or bankers acting as depositaries of the city funds.

#### When Treasurer shall keep possession of funds.

Section 297. If no bank or banks will agree to take the money of the city on deposit on terms satisfactory to the Council, as provided by this Charter, the Treasurer shall keep the same in cash in his own possession.

#### Council may require additional security from banks.

Section 298. Whenever from any cause the Council shall deem the

securities pledged by any bank insufficient and inadequate security for the funds of the city deposited with such bank, the Council shall require other or additional securities to be given by such bank to be approved by the Council; and if such bank shall fail promptly to furnish such securities the Treasurer at once shall withdraw all deposits from such bank and such bank shall cease to be a depository of city funds until it shall be reinstated as such by vote of the Council after it has deposited securities satisfactory to the Council.

**Treasurer to be in personal attendance at office; fees.**

Section 299. The Treasurer shall be in personal attendance at his office each day during office hours. No fees of any kind shall be retained by him, but the same from whatsoever source received or derived shall be paid by him into the treasury.

**Receipts—how issued by Treasurer.**

Section 300. The Treasurer, on receiving any money into the treasury, shall make out and sign two receipts for the money. Such receipts shall be alike, except that upon the face of one of them shall appear the word "Original" and upon the face of the other shall appear the word "Duplicate." Such receipts shall be numbered and dated, and shall specify the amount, on what account and from what person or officer received, and into what fund or on what account paid. The Treasurer shall enter upon the stubs of such receipts a memorandum of the contents thereof, and deliver the receipt marked "Original" to the person or officer paying such money into the treasury, and forthwith deliver the receipt marked "Duplicate" to the Auditor, who shall write upon its face the date of its delivery to him, and charge the Treasurer with the amount specified therein, and file the receipt in his office.

**City officers or agents to pay money of the city to Treasurer; penalty for failure.**

Section 301. Any officer or agent of this city or other person who shall receive or have in his hands any money belonging to the city, shall immediately pay the same to the Treasurer and a receipt thereof in duplicate shall be issued and one of the receipts shall be delivered to the Auditor by the Treasurer. If any such officer, agent or other person shall fail to pay to the Treasurer any money so received, for more than forty-eight hours after the money shall have been received by him, such officer, agent or other person shall forfeit to the city double the amount of money so received, to be recovered by civil action brought by the city against him in a court of competent jurisdiction.

**City Engineer.**

**City Engineer; how appointed; qualifications of.**

Section 302. There shall be a City Engineer of the City of Portland, who shall have been a duly qualified voter of said city; he shall be

appointed and may be removed by the Mayor, but in case of such removal the grounds therefor shall be transmitted by the Mayor to the Council and filed with the Auditor; he must have been in the practice of his profession for not less than ten years, and have had responsible charge of work for at least five years.

#### **City Engineer; salary; deputies; fees.**

Section 303. The City Engineer shall appoint one or more deputies and such other employees as may be necessary, subject to the civil service rules of this Charter. The salary of the City Engineer shall be twenty-four hundred dollars per annum, and the number and salaries of the deputies and employees of the department shall be determined by the Council, but no deputy or employee shall receive more than \$1800 per annum. The Engineer shall serve the city exclusively, and shall not be engaged in any other business while he is in its service. He shall receive no compensation other than his salary. The Council, by resolution, shall establish fees and charges for the services to be performed by the City Engineer for persons, companies, counties and corporations and may from time to time change and adjust the same. The City Engineer shall require such fees or charges to be paid in advance for any act or service demanded of him, and such moneys thus paid shall be paid to the Treasurer and credited by him to the general fund.

#### **Duties of City Engineer; filing of plats.**

Section 304. The City Engineer shall keep himself informed of the condition of all public streets, squares, parks, grounds, highways, bridges, sewers and street lights, and all plans and specifications for the construction, improvement or repairs thereof shall be made by him or under his supervision; and he shall have supervision of all surveys of streets, squares and parks, and all construction, improvements and repairs herein specified, whether such work be done by contract or otherwise. Before any ordinance is passed for the improvement of any street, highway or elevated roadway, he shall certify in writing to the Council as to the suitability of such proposed improvement, to the needs and requirements of the city; he shall see that the provisions of all contracts, ordinances and regulations relating to the construction, improvement and repair of streets and property herein designated are strictly complied with, and no claim for work as herein specified shall be allowed or paid out of the city treasury without the certificate of the City Engineer that said work has been done to his satisfaction; but any contractor or property owner feeling himself aggrieved by the determination of the City Engineer may appeal to the Executive Board, and if upon such appeal it be determined that such work was done well and faithfully according to contract, the Executive Board may accept said work and direct that the same be paid for.

The City Engineer shall keep proper records of all matters relating to the business of his office, and report to the Executive Board or

other boards, commissions or the Council from time to time such suggestions and recommendations as to matters connected with his department as he may deem expedient. It shall be the duty of the City Engineer to make all surveys, plans, specifications, maps and estimates for all the public works in the city or on property belonging to the city, and to perform such other duties as may be required of him by the Executive Board, other boards, commissions or Council or ordinances of said city.

No new plat of lands within the city nor of any addition to the same, shall be filed for record, nor shall any street, alley or other way be dedicated, until the plat or dedication shall have been submitted to the City Engineer, together with proof that all taxes and special assessments on the property included have been paid, or application to pay the same under the provisions of the bonding act has been accepted, and until he shall have endorsed thereon his certificate that the taxes and street assessments appear to have been paid, or payment provided for under the bonding act, and that the plan of such lands, addition, street or way is of a suitable and convenient character. Any person aggrieved by the failure or refusal of the City Engineer to certify a plat or dedication may appeal to the Council, which shall hear and determine the matter with all convenient speed, and if it reverse his decision a certified copy of the resolution declaring such action shall be attached to the plat or dedication in lieu of the certificate.

And when the Council shall determine, upon the certificate of the City Engineer or otherwise, that the plan of any addition or of any plat or dedication is improper or unsuitable it may, by resolution, require the filing of a new plat subject to the conditions hereinbefore set forth, as a condition to the establishment of any grade, or the improvement of any street in such addition.

#### **City Engineer to act for all boards or commissions.**

Section 305. The City Engineer shall be the consulting engineer of all boards and commissions authorized by this Charter or created hereafter in pursuance thereof, but he shall receive no compensation or salary therefor other than his salary as City Engineer.

### **ARTICLE IX.**

#### **Civil Service.**

#### **To what persons and offices Civil Service rules apply.**

Section 306. All appointments to and promotions in the subordinate administrative service of the city shall be made solely according to fitness, which shall be ascertained by open competitive examination, and merit and fidelity in service, as provided for in this Article. The provisions of this Article shall apply to the incumbents of all offices, places and employments in the public service of the city except the following: All officers chosen by popular election or by appointment

by the Council, the members of all boards and commissions, the judges and clerks of elections, the deputies of the City Attorney, the chief deputy of the City Treasurer, the City Engineer, the Chief of Police Department, the Superintendent and the Chief Engineer of the Water Department and the Secretary of the Civil Service Commission, the Mayor's secretary, the members of the Health Department and the Librarian.

#### Civil Service Commissioners—how appointed; qualifications of.

Section 307. The Civil Service Commission shall consist of three Commissioners. Within 30 days after the taking effect of this Charter, the Mayor shall appoint, as such Commissioners, three persons, known to him to be devoted to the principles of Civil Service Reform, one of whom shall serve for two years, one for four years and one for six years; and between the first and tenth days of July in 1905 and each second year thereafter, the Mayor shall, in like manner, appoint one person, as the successor of the Commissioner whose term of office expires in that year, to serve as such Commissioner for six years. The Mayor may remove any Commissioner at any time. In the event of any such removal, the Mayor shall, within five days thereafter, transmit to the Council a written report thereof and of his reasons therefor, and the Council shall forthwith appoint another person to fill the vacancy. Vacancies arising from any other cause shall be filled by appointment by the Mayor. All appointments to fill vacancies shall be for the unexpired term. No person shall be appointed as a Commissioner unless he shall have been a resident of the city three years immediately preceding his appointment. The Commissioners shall receive no salary or compensation for their services.

#### Secretary of Civil Service Commission; salary.

Section 308. The Commission shall appoint a secretary, who shall keep records of its proceedings, preserve all reports made to it, superintend and keep the record of all examinations held under its direction, and perform such other duties as it may prescribe. Such secretary shall hold office during the pleasure of the Commission; and he shall, except as hereinafter stated, receive such salary, of not more than \$100.00 per month, as the Council may fix. At the request of the Commission, the Council shall, if practicable, devolve the duties of such secretary upon the Auditor, who shall receive no extra or additional compensation for his services as such secretary.

#### Commission to classify places and employments.

Section 309. The Commission shall classify, with reference to the examinations hereinafter provided for, all the offices, places and employments in the public service of the city to which the provisions of this Article are applicable. Such classification shall be based upon the respective functions of said offices, places and employments, and

the compensation attached thereto, and shall be arranged so as to permit the grading of offices, places and employments of like character in groups and subdivisions. The offices, places and employments so classified shall constitute the classified civil service of the city; and after the taking effect of this Charter, no appointment or promotion to any such office, place or position shall be made except in the manner provided in this Article.

#### **Commission to publish rules and keep examination papers.**

Section 310. The Commission shall make rules to carry out the purposes and provisions of this Article, which rules shall provide, in detail, the manner in which examinations shall be held, and appointments, promotions and removals made in pursuance thereof; and the Commission may, from time to time, change its rules. Such rules, and all changes therein, shall be forthwith printed for distribution by the Commission, and the Commission shall, not less than ten days before the same go into effect, give notice, by publication in the city official newspaper, of the place where printed copies of said rules, or changes therein, may be obtained. The Commission shall keep on file all examination papers and the markings thereof, and all other papers, documents and communications received by them; and all records and files of the Commission shall be public and accessible at convenient times, as other public records and documents; but examination papers and markings need not be preserved more than five years.

#### **Examinations—how held.**

Section 311. The Commission shall, from time to time, hold public competitive examinations to ascertain the fitness of applicants for all offices, places and employments in the classified civil service. Said examinations shall be confined to citizens of the United States who can read and write the English language, and shall be open to all such citizens who possess such qualifications as to residence, age, health, habits and moral character as may, by rule, be prescribed by the Commission. Notice of the time, place and general scope of every examination shall be given by the Commission by publication in the city official newspaper once each week for two successive weeks and by posting such notice in a conspicuous place in the office of the Commission for not less than two weeks preceding the examination. Such examinations shall be practical in their character, and shall relate only to those matters which may fairly test the relative fitness of the persons examined to discharge the duties of the positions for which they are applicants, and shall include, when appropriate, tests of health and physical qualifications and of manual, clerical or professional skill. No question in any examination shall relate to political or religious opinions, affiliations or services. The Commission shall control all examinations and shall designate the persons who shall act as examiners at any examination. When a person in the official service of the city is designated by the Commission, he shall, without being

entitled to extra compensation therefor, act as such examiner. Any commissioner may act as an examiner. No examiner shall receive any compensation for his services as such.

**Commission to keep register of positions and applicants therefor; method of keeping.**

Section 312. The Commission shall prepare and keep a register for each grade or class of positions in the classified civil service of the persons whose general average standing upon examination for such grade or class is not less than the minimum fixed by the rules of the Commission, and who are otherwise eligible. Such persons shall take rank upon said register as candidates in the order of their relative excellence, as determined by examination, without reference to priority of time of examination. Candidates of equal standing shall take rank upon the register according to the order in which their applications were filed. The Commission may, by rule, provide for striking candidates from the register after they have remained thereon for a specified time, and may limit the number of times the same candidate shall be certified to the appointing authority.

**Vacancies, how filled; employees of six years' standing to be re-appointed.**

Section 313. Whenever there shall be a vacancy in any position in the classified civil service, the appointing authority shall immediately notify the Commission thereof. The Commission shall thereupon certify to such appointing authority the names and addresses of the three eligible candidates standing highest upon the register for the class or grade to which such position belongs, but, if there be less than three, the Commission shall so certify all such candidates upon the register. When vacancies exist in two or more positions of the same class in the same department at the same time, the Commission may certify a less number than three candidates for each position, but those certified must be the eligible candidates standing highest upon the register. The appointing authority may require the candidates so certified to come before him, and shall be entitled to inspect their examination papers. The appointing authority shall appoint to each vacant position, on probation for a period to be fixed by the rules, one of the candidates so certified. Within such period, the appointing authority may discharge such probationer, and, in like manner, appoint another of such candidates, and so continue until all said candidates have been so appointed; but the appointing authority must make permanent appointment from said list of candidates unless, upon reasons assigned in writing by the appointing authority, the Commission consents to and does certify a new list of candidates. If any probationer is not discharged within the period of probation, his appointment shall be deemed permanent. Any person who has been employed in any one department of the public service of the city for the six years immediately preced-

ing the taking effect of this Charter, shall, upon making satisfactory proof of such employment to the Commission, within thirty days after its appointment, provided the position which he occupies at the time this Charter goes into effect is included in the classified civil service, be certified by the Commission to the appointing authority for that position as entitled to appointment, and such appointing authority shall forthwith appoint said person to such position. The appointing authority shall immediately notify the Commission of any appointment or discharge.

#### **Temporary appointments.**

Section 314. In the absence and pending the preparation of an appropriate eligible list from which appointments can be made, or in extraordinary emergencies to prevent delay or injury to the public business, any office, place or employment in the classified civil service may be filled temporarily by the appointing authority, but not for a longer period than thirty days.

#### **Restrictions on appointments.**

Section 315. No person shall be appointed or employed under any title not appropriate to the duties to be performed, and no person shall, without examination, be transferred to or assigned to perform the duties of any position in the classified civil service unless he shall have been appointed to the position from which such transfer is made as the result of an open competitive examination equivalent to that required for the position to which the transfer is made, or unless he shall have served with fidelity for at least six years in a like position in the service of the city. No person habitually using intoxicating beverages to excess shall be appointed to or retained in any office, place or employment in the classified civil service.

#### **Promotions—rules regarding.**

Section 316. The Commission shall, by its rules, provide for promotions in the classified service, on the basis of ascertained merit and seniority in service, and standing upon examination, and shall provide that in all cases where practicable, vacancies shall be filled by promotion. All examinations for promotions shall be competitive among such members of the lower ranks established by the Commission for each department as desire to submit themselves to such examination; and the Commission shall submit to the appointing authority the names of not more than three applicants, having the highest rating, for each promotion; and the promotion shall thereupon be made as in case of original appointments. The method of examining and the rules governing the same and the method of certifying shall be the same, as near as may be, as provided for applicants for original appointment. But the Commission may by its rules prescribe the weight to be given

to the recommendation of the head of the department in which the candidate for promotion has served; and where record of fidelity and efficiency of employees is regularly kept in good faith in any department the Commission shall give the same at least equal value with the record on examination for promotion.

**No removals, except for cause; investigation thereon; suspensions; Commission to make reports to Mayor.**

Section 317. No employee in the classified civil service who shall have been appointed under the provisions of this Article shall be removed or discharged except for cause, upon written charges (of which one copy shall be served upon him and a duplicate filed with the Commission). Any employee so removed may, within ten days from his removal, file with the Commission a written demand for investigation. The charges shall forthwith be investigated by or before the Commission, or by or before some officer or board appointed by the Commission to conduct such investigation. The findings of the Commission, or such officer or board, when approved by the Commission, shall be certified to the appointing officer and shall be forthwith enforced by such officer.

Any appointing authority may suspend a subordinate for a reasonable period not exceeding thirty days, but such suspension if occurring more than once a year shall be deemed a removal and subject to investigation in like manner. But, if at any time the Council or other city authority shall abolish any office or employment, or reduce the number of employees, discharges shall be made in the inverse order of appointment, and if such offices or places shall again be created or reinstated the employees so removed (except as to emergency employees) shall have preference for reappointment in the order of their discharge.

The Commission shall, on or before the first day of January of each year, make to the Mayor for transmission to the Council a report showing its own actions, the rules in force, the practical effect thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this Article. The Mayor may require a report from the Commission at any reasonable time.

**Commission to be provided with office, etc.**

Section 318. The Council shall furnish the Commission with suitable offices, office furniture, books, stationery, blanks, heat and light and shall provide for the payment of such other expenses as may necessarily be incurred in carrying out the provisions of this Article.

**Commission to keep roster of employees; general provisions.**

Section 319. It shall be the duty of said Civil Service Commission to prepare, continue, and keep in their office a complete roster of all persons in the classified civil service of the city. This roster shall be open for inspection at all reasonable hours. It shall show in reference

to each of said persons his name, the date of appointment to or employment in such service, his compensation, the title of the place or office he holds, the nature of the duties thereof and the date of any termination of such service. It shall be the duty of all officers and employees of the city to give to the Commission all the information which may be reasonably requested, or which the regulations established by the Commission may require, in aid of the preparation or continuance of said roster, and, so far as practicable, it shall indicate whether any and what persons are holding any and what offices or places aforesaid in violation of this Article or of any regulations made thereunder. Said Civil Service Commission shall have access to all public records and papers, the examination of which will aid in the discharge of their duties in connection with said roster. It shall be the duty of said Commission to certify to the Auditor the name of each person appointed or employed in the classified civil service, stating in each case the title or character of the office or employment, the date of the commencement of service by virtue thereof, and the salary or other compensation paid, and, also, as far as practicable, the name of each person employed in violation of this act or of the regulations established thereunder, and to certify to the said Auditor in like manner every change occurring in any office or employment of the classified civil service forthwith on the occurrence of the change. No officer or employee of the city shall draw, sign, countersign, or issue any warrant or order for the payment of, or pay any salary or compensation to any person in the classified civil service who is not certified by the Commission to the Auditor as having been appointed or employed in pursuance of this Article and of the regulations in force thereunder. Any person entitled to be certified as aforesaid may maintain a proceeding by mandamus to compel the issuance of such certificate. Any sums paid contrary to the provisions of this section may be recovered in an action in the name of the city from any officer or employee of the city paying the same, or from any officer signing, countersigning, drawing or issuing, or authorizing the drawing, signing, countersigning or issuing of any warrant or order for the payment thereof, and from the sureties on his official bond. All money recovered in any such action must, when collected, after paying all the expenses of such action, be paid into the city treasury.

#### **Commission may make investigations; powers of.**

Section 320. The said Commissioners may make investigations concerning the facts in respect to the execution of the provisions of this Article, and of the regulations established under its authority. In the course of any investigation made by the Commission under the provisions of this Article each Commissioner and the secretary shall have the power to administer oaths. Said Commission shall have the power, for the purpose of this Article, to examine into books and records, compel the production of books, papers, records or documents, subpoena

witnesses, and compel their attendance and examination, as though such subpoena had issued from a court of record of this state; and all officers and employees of the city shall afford the said Commission all reasonable facilities in conducting any investigations authorized by this Article, and give inspection to said Commission of all books, papers and documents belonging or in any wise appertaining to any offices or departments of the city; and, also, shall produce said books and papers, and shall attend and testify when required to do so by said Commissioners without receiving any extra or special compensation therefor. Wilfull false swearing in such investigations and examinations shall be perjury and punishable as such.

#### Misdemeanors of Commissioners—what are.

Section 321. Any commissioner, examiner, or any other person who shall wilfully or corruptly, by himself or in co-operation with one or more persons, defeat, deceive or obstruct any person in respect to his or her right to examination or registration according to the regulations prescribed pursuant to the provisions of this Article, or who shall, wilfully or corruptly, falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified according to any regulation prescribed pursuant to the provisions of this Article, or aid in so doing, or who shall wilfully or corruptly make any false representations concerning the same, or concerning the persons examined, registered or certified, or who shall wilfully or corruptly furnish to any person any special or secret information for the purpose either of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified, or who shall personate any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration or application or request to be examined or registered, shall for each offense be deemed guilty of a misdemeanor.

#### Political assessments prohibited.

Section 322. No person in the national public service or the public service of the state or any civil division thereof, including counties, cities, towns, shall directly or indirectly use his authority or official influence to compel or induce any person in the public service of the city to pay or to promise to pay any political assessment, subscription or contribution. Every person who may have charge or control in any building, office or room, occupied for any purpose of said public service of the city is hereby authorized to prohibit the entry of any person into the same for the purpose of therein making, collecting, receiving or giving notice of any political assessment, subscription or contribution, and no person shall enter or remain in any said office, building or room, or send or direct any letter or other writing thereto for the pur-

pose of giving notice of, demanding or collecting, nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription or contribution; and no person shall prepare or make out, or take part in the preparing or making out of any political assessment, subscription or contribution with the intent that the same shall be sent or presented to or collected from any person in the public service of the city, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment by any person in said public service.

Any person who shall be guilty of violating any provision of this section shall be deemed guilty of a misdemeanor.

#### Bribery—"public officer" defined.

Section 323. Whoever, being a public officer or being in nomination for, or while seeking a nomination or appointment for, any public office, shall use, or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person, or in order to secure or aid any person to secure any office or appointment in the public service, or any nomination, confirmation or promotion, or increase of salary on consideration that the vote, political influence or action of the last-named person or any other shall be given or used in behalf of any candidate, officer or political party or association, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery or an attempt at bribery. And whoever, being a public officer or employee, or having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer or employee, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the political vote or action of any citizen, or the removal, discharge or promotion of any public officer or public employee, or upon any other corrupt consideration, shall also be guilty of bribery, or an attempt at bribery. And every person found guilty of such bribery, or an attempt to commit the same, as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than fifty dollars or more than one thousand dollars, or to be imprisoned not less than ten days or more than two years, or to both said fine and said imprisonment, in the discretion of the court. If the person convicted be a public officer he shall, in addition to any other punishment imposed, be deprived of his office and be ineligible to any public office or employment for ten years thereafter. The phrase "public officer" shall be held to include all public officials within this city, whether paid directly or indirectly from the public treasury of the state or of the United States, or from that of any civil division thereof, including counties, cities and towns and whether by fees or otherwise; and the phrase "public employees" shall be held to

include every person not being an officer who is paid from any said treasury.

#### Recommendations of applicants—how limited.

Section 324. No recommendation in favor of any person who shall apply for office or place, or for examination or registration under the provisions of this Article or the regulations established under the authority thereof, except as to residence and as to character, and in the case of former employees as to abilities, when said recommendation as to character and abilities is specifically required by said regulations, shall be given to or considered by any person concerned in making any examination, registration, appointment or promotion under this Article or under the regulations established under the authority thereof. No recommendation under the authority of this Article shall relate to the religious or political opinions or affiliations of any person whomsoever.

#### Political services.

Section 325. No person in the service of the city is for that reason under any obligation to contribute to any political fund or to render any political service, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing to do so. No person in the service of the city shall discharge or promote, or degrade, or in any manner change the official rank or compensation of any other person in said service, or promise or threaten to do so for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose. No person in said service shall use his official authority or influence to coerce the political action of any person or body, or to affect or to interfere with any nomination, appointment or election to public office.

#### Violation of Civil Service provisions a misdemeanor.

Section 326. Whoever makes appointment to office in the public service of the city or selects a person for employment therein contrary to the provisions of this Article or of any regulation duly established under the authority thereof, or wilfully refuses or neglects otherwise to comply therewith, or conform to, the provisions of this Article, or violates any of such provisions, shall be guilty of a misdemeanor.

#### Penalty for misdemeanor under this Article; jurisdiction of.

Section 327. Misdemeanors under the provisions of this Article shall be punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail for not longer than one year, or by both such fine and imprisonment. The Circuit Court of the State of Oregon shall have jurisdiction of offenses defined in this Article.

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## CHAPTER V.

### Judiciary.

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#### ARTICLE 1. Municipal Court.

#### ARTICLE 2. City Attorney.

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#### ARTICLE I.

##### Municipal Court.

###### **Municipal Court created.**

Section 328. There is hereby created a municipal court for the City of Portland, which shall be known and described as the "Municipal Court for the City of Portland," which shall be a court of record, having a seal.

###### **Jurisdiction of Municipal Court.**

Section 329. Said municipal court shall have jurisdiction of all crimes defined by ordinances of the City of Portland and of all actions brought to enforce or recover any forfeiture or penalty declared or given by any such ordinance; and shall likewise have within the City of Portland the jurisdiction and authority of a justice of the peace and committing magistrate, and shall be subject to all of the general laws of the state prescribing the duties of a justice of the peace and the mode of performing them, except as herein otherwise provided. The powers, duties and jurisdiction herein conferred upon such municipal court may be exercised by the judge thereof, his successor or a person appointed by the Mayor to preside as such judge as hereinafter provided.

###### **Municipal Judge; qualifications; term of office.**

Section 330. The judge of the municipal court shall be an attorney of the Supreme Court of the State of Oregon, and must have been an elector of the city and state for at least five years preceding his election. He shall be elected by the people and hold office for the term of two years and until his successor is elected or appointed and has qualified. He shall qualify on or before the first day of July next succeeding his election. He shall receive a salary of \$1,800.00 per year, payable monthly, out of the general fund in the same manner as other salaries are paid therefrom.

###### **Clerk of Municipal Court appointed by Executive Board; his duties; records.**

Section 331. The Executive Board is authorized and empowered to appoint a clerk of said court, who shall perform the duties both as clerk of such court and of the Police Department. He shall record all the proceedings of said court in convenient books or records kept by him

for that purpose. The records so kept shall be public records, subject to examination and inspection as other public records. Said clerk shall hold his office during the pleasure of the Executive Board and until his successor is appointed and qualified. The clerk of the municipal court shall receive a salary of seventy-five dollars per month, payable out of the general fund, in the same manner as other salaries are paid out of said fund. He shall have power and it shall be his duty to take oaths and affidavits, to file, keep and preserve the records and files of the court; to receive for and in behalf of the court or the judge thereof, and subject to the direction of the presiding judge, money deposited for bail, all fines and costs imposed by the court or judge thereof; to keep the seal of the court and affix it to any process, transcript, certificate or other paper, as required by law, and to perform other duties required of him by the presiding judge. He shall execute a bond in such sum as the Executive Board may order, to be approved by the Mayor, conditioned for the faithful performance of his duties, which shall run to the City of Portland and to whomsoever it may concern, and such bond shall be filed with the Mayor.

#### Proceedings in Municipal Court; jury trials.

Section 332. All proceedings before the court or judge thereof, including all proceedings for the violation of any city ordinance, are governed and regulated by the general laws of the state applicable to the justice of the peace or justices' courts in like or similar cases, except as in this Charter otherwise provided; but in a proceeding for the violation of a city ordinance the trial shall be before the judge and without a jury, unless the defendant, on demanding a jury, shall deposit in court a sum sufficient to pay the per diem of such a jury for one day. The jurors summoned or serving in said court shall be paid the same per diem and mileage as is required to be paid to jurors serving in justices' courts, the same to be paid out of the city treasury, the judge of said municipal court to issue certificates of the amount due for said service, the same to be presented to the Auditor and warrants therefor drawn upon the Treasurer in the manner provided by the Council.

#### Fines, costs, fees and expenses recovered to be paid to Treasurer.

Section 333. All fines, costs, fees and expenses taxed against or received from any defendant in a criminal proceeding before the court or judge thereof, either for the violation of a city ordinance or law of the state, shall, when received or collected, be paid by said judge to the Treasurer, who shall give him duplicate receipts therefor, one of which shall be filed with the Auditor; and all fines imposed by the court or judge and penalties recovered before either for a violation of a city ordinance or a law of the state, shall, when received or collected, be disposed of by him in like manner, and said judge shall not be entitled to have or receive any fee or compensation for any act by him done

or performed, or by virtue of this Charter, other than the salary herein provided.

#### Fees when acting as Justice of the Peace.

Section 334. When any service authorized by law to be performed by a justice of the peace shall be performed by the Municipal Court or judge thereof, there must be taxed and collected therefor the fees or compensation prescribed by law to be charged by a justice of the peace for such services, and all such fees and compensation shall be paid over to the Treasurer as is elsewhere provided in this Charter.

#### Mayor to appoint temporary judge in absence of Municipal Judge.

Section 335. In case of illness or temporary absence of the judge of the court, the Mayor may designate any person having the qualifications of a judge of the court to preside as such judge; he shall forthwith take the oath of office and perform the duties of the judge of the court during the temporary absence or disability of the judge thereof. Such substitute shall be paid by the city at the same rate as the judge for the time he serves, which amount shall be deducted from the salary of the judge.

#### Appeals from Municipal Court.

Section 336. Except as hereinafter stated, appeals may be taken and shall be allowed from final judgments rendered in the municipal court in all actions, both civil and criminal, under the same circumstances, on the same conditions, in the same manner, and with like effect, that, under the laws existing at the time of the rendition of any such judgment, appeals may be taken and shall be allowed from final judgments rendered in similar actions in justices' courts. Any defendant who is convicted of any crime defined or created by this Charter, or of a violation of any ordinance, rule or regulation of the City of Portland, and is sentenced to any imprisonment or to pay a fine exceeding twenty dollars, may, within five days from the date of such conviction and judgment, appeal to the Circuit Court of Multnomah County, by giving to the City Attorney a written notice of appeal and filing an undertaking on appeal, with one or more sureties, to be approved by the municipal judge, in said municipal court, which undertaking shall be to the effect that such defendant and appellant shall pay all costs awarded against him on the appeal, and render himself in execution of any judgment rendered against him on the appeal; and the city may appeal to said circuit court from any final judgment in any such criminal action by serving upon the defendant therein or his attorney and filing in said municipal court a written notice of appeal, within five days from the date of the rendition of such final judgment.

#### Pending actions to be proceeded with.

Section 337. All actions and proceedings pending in the municipal court of the city when this Charter takes effect shall thereafter be pro-

ceeded with in accordance with the provisions of this Charter, or any city ordinance applicable thereto, and continue in force by this Charter.

**Removal of Municipal Judge; his successor.**

Section 338. The Council may at any time, for cause, by a two-thirds vote of all its members, remove the municipal judge from office. Upon any such removal the Mayor shall appoint a successor to said municipal judge, who shall possess the qualifications required of the municipal judge by this Charter, and who shall qualify in like manner.

**ARTICLE II.**

**City Attorney.**

**City Attorney; his qualifications; term of office.**

Section 339. The City Attorney shall be an attorney of the Supreme Court of the State of Oregon and shall be an elector of the city and of the State of Oregon at the time of his election, and must have been such for at least five years preceding such time. He shall be elected by the people and hold office for the term of two years and until his successor is elected or appointed and has qualified. He shall qualify on or before the first day of July next succeeding his election.

**Duties of City Attorney; salary of; generally.**

Section 340. The City Attorney must attend to, and shall, subject to the direction of the Council, have control of all actions, suits or proceedings in which the city is legally interested, and must attend to the prosecution of every person charged with the violation of a city ordinance, or of any regulation adopted under the authority of this Charter, or with the commission of a misdemeanor as declared by this Charter or by virtue of its authority. In any prosecution for violation of any regulation adopted by the Executive Board, or any other board created by this Charter, the City Attorney shall act under the directions of such board, subject to such paramount control as is given to the Council by this Charter.

He shall prepare for execution all contracts, bonds or other instruments to which the city is a party; he shall give his advice and opinion in writing concerning any matter in which the city is interested when required by the Mayor, Executive Board, Water Board, or other board or body, Council or any committee of the Council; he may have one or more deputies, to be appointed by him in writing and to continue during his pleasure, the number and compensation of such deputies to be fixed by the Council. The salary of the City Attorney shall be \$2400 per annum, payable in monthly installments out of the city treasury.

**Suite—in Municipal Court.**

Section 341. It shall be the duty of the City Attorney in person

or by deputy to prosecute without charge, other than the salary paid him as City Attorney or deputy, all causes brought before the municipal court for any violation of the ordinances of the city, or of regulations adopted under the authority of this Charter, or for the commission of any misdemeanor as declared by this Charter or by virtue of its authority.

**Council to provide office for City Attorney.**

Section 342. The City Attorney shall have his office and headquarters in such rooms in the City Hall as the Council may designate, to be provided and furnished at the expense of the city, which shall be open on all business days during such hours as the Council shall fix.

**City Attorney's records.**

Section 343. The City Attorney shall have charge and custody of said office and of all legal papers pertaining thereto, which shall be arranged and indexed by him in such convenient and orderly manner as to be at all times readily accessible. He shall keep in said office a complete docket and duplicate pleadings of all suits, actions or proceedings in which the city or any department or official thereof is interested, pending in any court or tribunal, upon which docket such appropriate entries shall be made as to show at all times the condition of each one of such cases. He shall also keep and record in a book to be provided for that purpose, the original or duplicate copies of all written opinions furnished by him to the city, or to any department or official thereof, and also of all certificates of titles furnished to the city, or any department or official thereof by him, and all abstracts of titles which shall hereafter be furnished to or obtained by the city. He shall also procure, as far as possible, all legal opinions and abstracts of title which have heretofore been furnished to the city, or any department or official thereof, and shall file and arrange such opinions and abstracts in such manner and order as to be at all times readily accessible, and shall make and preserve an index thereof. He shall also procure all law books heretofore purchased by the city and in the possession of any law officer or ex-law officer of the city or other person, and mark them and arrange them in a proper bookcase.

**City Attorney required to institute suits, etc.**

Section 344. The City Attorney shall have authority, upon the written direction of the Council, to institute upon behalf of the city, or any board or commission of the city, any suit, action or proceeding, in any court or tribunal, local, state or federal. All appeals on behalf of the city to the Circuit Court of the State of Oregon, in municipal cases, shall be taken by the City Attorney when by him deemed advisable. All other appeals on behalf of the city shall be taken by the City Attorney only upon the written direction of the Council.

Shall deliver records to his successor.

Section 345. He shall deliver all books and records, reports, documents, papers, statutes, law books and property of every description in his possession, belonging to his office, or to the city, to his successor in office, who shall give him duplicate receipts therefor, one of which he shall file with the Auditor.

## CHAPTER VI. Streets and Sewers.

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- ARTICLE 1. Establishing and Changing of Streets.
- ARTICLE 2. Vacation of Streets.
- ARTICLE 3. Establishment and Change of Grades.
- ARTICLE 4. Improvement of Streets.
- ARTICLE 5. Sidewalks.
- ARTICLE 6. Sewers and Drains.
- ARTICLE 7. Special Assessments.
- ARTICLE 8. Miscellaneous Street Provisions.

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### ARTICLE 1. Establishing and Changing of Streets.

#### Power of Council over streets.

Section 346. The Council of the City of Portland is hereby granted power and authority within the limits of said City of Portland, whenever it may deem it expedient, to open, lay out, establish, widen, alter, extend, vacate or close streets, and to appropriate and condemn private property therefor.

#### City Engineer to make survey of street to be laid out or established.

Section 347. Whenever the Council shall deem it expedient to open, lay out and establish a new street, or to change an existing street, by widening, altering or extending the same, it shall by resolution direct the City Engineer to make a survey of such street or change, and to make a plat of the same, and a written report containing a full and complete description of such street or change, and of the boundaries thereof, and of the portions of each lot and tract of land to be appropriated therefor. The City Engineer shall make such survey, report and plat and file the same with the Auditor of the City of Portland within twenty days from the date the same was ordered by the Council, unless said Council grant him further time. Should the Council deem said survey, plat and report satisfactory, it shall adopt the same by ordinance embodying such report.

#### Viewers to be appointed; notice thereof.

Section 348. Thereafter within sixty days from the adoption of such

report, the Council shall appoint three disinterested freeholders of the City of Portland possessing the qualifications of jurors of the Circuit Court of Multnomah County, to view such proposed street or change and make an assessment of damages and benefits as provided in the next following section of this Charter, and shall assign a day and place for them to meet, and shall cause a notice to be given by publication for ten successive days in the city official newspaper of the appointment of such viewers, with their names and the time and place appointed for them to meet, and specifying with convenient certainty the boundaries and termini of the proposed street or change, and the boundaries and descriptions of the private property to be appropriated for such purpose; and the Auditor shall send by mail, postpaid, a copy of such notice to each of the property-owners whose property is proposed to be appropriated, or to the agent of such owner, when the postoffice address of such owner or agent is known to him, and if such postoffice address be unknown, then such notice shall be directed to such owner or agent at Portland, Oregon. The published notice herein provided for shall be deemed conclusive notice to all owners of property whose property shall be appropriated for such purpose.

#### **Proceedings of viewers; their oath; compensation.**

Section 349. The Auditor shall at least five days before the day set for such meeting, cause said viewers to be notified of their appointment and of the time and place of such meeting, and said viewers shall meet at the time and place designated, and shall then be sworn faithfully to discharge the duties assigned them. They shall then, or on any subsequent day to which they may adjourn (which adjournment shall not exceed one week at a time), proceed to view the proposed street or change, and to determine and assess how much, if any, less valuable the lands or other property, or any part thereof through or over which the proposed street is to be opened, laid out, established, or changed, will be rendered thereby; and shall also ascertain the respective interests of all persons claiming to be the owners of the lands, or other property aforesaid, or of the improvements thereon or to have any interest in such lands or improvements and the damage which each of the said owners respectively will sustain, but the right and title of the owners of such improvement shall not be affected by such proceedings and the appropriation of such lands, if such owners shall within sixty days after the appropriation of such lands shall be completed or within such further time as the Council shall allow therefor, remove such improvements from said lands; otherwise such improvements shall become and be the property of the City of Portland. Said viewers shall also make a just and equitable estimate and assessment of the value of the benefits and advantages of said proposed street or change to the respective owners, and other persons interested in all lands, or other property, which said viewers shall deem specially benefited by such opening, laying out, establishing or change.

Said viewers shall thereafter, at their earliest convenience, report the assessment for damages and benefits as in this section required to the Council, but any failure to state the name of any owner, or a mistake in the name of any owner, or a statement of a name other than that of the true owner, in such report, assessment, or in the ordinance adopting such report, or in the Docket of City Liens where the name is entered, or in any notice required by this Charter, shall not render void nor in any way affect the lien of such assessment upon the property assessed. The viewers shall receive as compensation for their services the sum of four dollars each for each day actually engaged in said service, to be paid by the city and charged as costs, and assessed as part of the benefits by said viewers.

**Notice of viewers' report; Council may adopt or reject report.**

Section 350. Upon the filing of said report of the viewers with the Auditor he shall immediately cause a notice to be published for a period of five successive days in the city official newspaper, of the filing of said report, giving the date when the same will be considered by the Council, describing with convenient certainty the boundaries of the district assessed by the viewers in said report, and notifying all persons interested to present, in writing, their objections to said report, if any they have, and said objections, if any there be, together with said report, shall be heard and determined by the Council.

It shall also be the duty of the Auditor, forthwith, to send by mail, postpaid, a notice of each assessment, stating the date when the same will be considered by the Council, and directing all persons interested to present in writing their objections to said report, if any they have, to the owner (if known) of each lot or part thereof, or tract of land assessed, any part of which is appropriated for the proposed street, or to the agent of such owner, when the postoffice address of such owner or agent is known to him, and if such postoffice address be unknown to him, then such notice shall be directed to such owner or agent at Portland, Oregon. If such report shall appear to the Council to be in all respects reasonable and just, it may be adopted by ordinance embodying such report, or if it shall appear to the Council that the damages or benefits assessed are unreasonable, unjust or insufficient in any respect, the Council may send the same back to the same viewers for further consideration, and the viewers may alter and revise the same as they shall deem just, and again report the same to the Council, who may thereupon adopt or reject the same; or said Council may appoint new viewers with like powers, duties and obligations as the first viewers, to make such assessment and awards, and to report the same to the Council, which shall have the same power over such report as over that of the original.

**Appeal from viewers' report.**

Section 351. The owner or owners of any lot or part thereof so to

be appropriated as aforesaid, or of the improvements thereon, or any person having an interest therein, or any person against whom an assessment of benefits has been made, may appeal to the Circuit Court of the State of Oregon, for the County of Multnomah, from such report and assessment of damages and benefits. Any number of persons may join in such appeal, and the only question to be determined by such appeal shall be the question of the excess of damages over benefits and the excess of benefits over damages suffered and received by each person joining in such appeal.

#### **Appeal—how taken.**

Section 352. An appeal shall be taken by serving notice of appeal within twenty days from the adoption of the report of the viewers by the Council, upon the Mayor, Auditor or Attorney of the city, and filing an undertaking, with one or more sureties, who shall possess the qualifications of bail upon arrest in a civil action, and shall justify in like manner, conditioned that the appellant will pay all costs and disbursements that may be awarded against him on appeal, not exceeding three hundred dollars, together with the proof of service of such notice, in the office of the Clerk of the Circuit Court.

#### **Appeal—how conducted; trial.**

Section 353. The city shall be considered the plaintiff, and such appeal shall be conducted and be heard and determined, and the judgment thereon enforced, as far as practicable, in the same manner as an action at law. The jury shall view the proposed street, the property to be appropriated, and the property against which benefits are assessed, and evidence of damages and benefits may be introduced by the city and the appellants, but the issues, testimony and verdict upon such appeal shall be confined to the parties appealing, and the jury shall not reassess any damages or benefits unappealed from. The jury, in making the reassessment of damages or benefits, shall, in its apportionment of the same be governed by the same laws as in this Charter provided for the action of viewers. The verdict of the jury shall be a final and conclusive determination of such assessment, unless the judgment rendered in such case shall be reversed or modified on appeal. An appeal to the Supreme Court of the State may be taken from such judgment in the same manner as from other judgments of said Circuit Court and with like effect. On an appeal from the report and assessment of damages and benefits the facts that one called as juror is a taxpayer of the City of Portland shall not disqualify him from sitting as such juror.

#### **Judgment on Appeal.**

Section 354. If any appellant fails to recover greater damages or to secure a more favorable assessment of benefits, as the case may be, than were assessed by the viewers, judgment shall be rendered against him and his sureties on appeal for his proportion of the costs of such

appeal to be paid pro rata according to the respective amount of damages and benefits assessed.

**Costs on appeal.**

Section 355. The same fees and costs shall be taxed and paid upon such appeal as are allowed in other actions.

**Proceedings prima facie regular.**

Section 356. In all actions, suits and proceedings concerning the opening, laying out, establishing or changing of any street, under the provisions of this Charter, all proceedings had for that purpose shall be presumed to have been regularly and legally taken until the contrary is shown.

**Docket of city liens; collection of assessments.**

Section 357. The Council at the expiration of the time limited for appeal, if no appeal be taken, or immediately after judgment is rendered on appeal, if an appeal be taken, and if it shall deem it advisable to open, lay out, establish or change said street, in pursuance of said judgment, shall by resolution direct the Auditor to enter in the docket of city liens the respective sums of benefits over damages so assessed, upon each particular lot or parcel of land, and the names of the owners or other parties in interest in the lands or other property benefited and assessed in like manner as assessments for street improvements are entered in said lien docket, and when so docketed said sums shall be a lien or charge upon the estate and interest of the respective owners and parties interested in such lands or other property and also the said owners and other persons interested, as aforesaid, shall be respectively and severally liable to pay said assessments, and in case no appeal or other proceedings in court be taken as to any such assessment of benefit or damages, the said excess so assessed shall be paid to the Treasurer of the City of Portland within ten days from the time of entering the same on the docket of city liens, or the same shall be deemed delinquent; and thereupon shall be collected in like manner as provided for the collection of other delinquent assessments by this Charter, excepting that if all the property upon which assessments are due and delinquent is not sold at any sale, proceedings may be begun for a subsequent sale immediately after the returns of a sale are made. All moneys arising from such assessment of benefits shall be kept in a separate fund and be applicable to the satisfaction of the excess of damages over benefits assessed to owners and other persons interested in the property taken or damaged for the purpose of laying out, establishing or changing the street in the matter in which such benefits are assessed and for the payment of expenses incurred by the city for surveying, advertising and viewers in said proceedings.

**Warrants for damages; assessments void, unless collected within nine months.**

Section 358. Whenever the full amount of the assessment of ben-

efit as entered in the docket of city liens is paid into the city treasury, warrants shall be drawn on the Treasurer payable out of the fund to be provided for that purpose, for the amount of excess of damages, or excess of damages and costs assessed, and in favor of the owner or owners, or other persons in interest, and when said warrants therefor are drawn and ready for delivery to the parties entitled to the same, such property shall be deemed appropriated for the purpose of such street, and not otherwise; provided, that no process of any court shall issue to compel any appropriation for damages or the issuing of warrants for the same. And unless such assessments are collected, and said warrants so drawn and ready for delivery within nine months after the termination of the time limited for appeal, if no appeal be taken, or within nine months from the date of the rendition of final judgment on appeal, if an appeal be taken, all acts and proceedings under such survey and view shall be null and void.

**Council to declare street opened when warrants are drawn; plat to be filed.**

Section 359. And when said warrants are drawn and ready for delivery to the parties entitled to the same, the property required for public use as shown in the report of the City Engineer shall be deemed appropriated for the purpose of the street, and the Council shall by resolution declare such street to be opened, laid out, established or changed, and within thirty days after the adoption of said resolution the City Engineer shall file for record with the County Clerk of Multnomah County, a copy of said resolution, and an accurate plat of said street, and of the property so appropriated for public use.

**Power granted to Council; how exercised. Survey of street adopted by ordinance.**

Section 360. The power and authority granted to the Council by this Charter is granted to the municipal corporation of the City of Portland, to be exercised according to the provisions of the Charter creating such corporation, unless otherwise specially provided therein. The power to approve and adopt the survey of any street must be exercised by ordinance and not otherwise.

**Council may provide regulations.**

Section 361. The Council may provide by ordinance any regulations as to the manner of opening, laying out, establishing or changing streets not in conflict with this Charter, and may provide by ordinance anything convenient and necessary for the effectual carrying out of the spirit and intention of this Charter.

**ARTICLE II.**  
**Vacation of Streets.**

**Notice and petition for vacating street.**

Section 362. Whenever any person or corporation interested there-

in shall desire the vacation of any street, or part thereof, within the City of Portland, the person or corporation so desiring said vacation shall give notice, by advertisement thereof, for four consecutive weeks, in the city official newspaper that at a regular meeting of the Council of the said city, to be had at the time stated in such notice of publication, a petition will be presented to the Council praying for the vacation of such street, or portion thereof, particularly describing the same. The petition, so to be presented to the Council, shall set forth a description of the part of the street proposed or sought to be vacated, and the purpose for which the ground is proposed to be used, and the reason for such vacation, and there shall be appended to such petition, as a part thereof, and as the basis for such vacation, and as a basis for the granting of the prayer of such petition, the consent of the owners in fee simple, of at least two-thirds of the real estate fronting on both sides of said street which or part of which is proposed to be vacated, estimated upon the frontage of the street, such frontage to commence at a line drawn equi-distant from the termini of the street, or portion thereof, proposed to be vacated, and extending along such proposed vacation the entire length thereof and two hundred feet in each direction from the termini thereof, unless such street shall not be continuous in either direction, in which case the consent of the owners above provided for shall only be required for the distance that it is continuous; provided, that in the vacation of a plat it shall require the consent of the owners of two-thirds of all the real estate fronting on the streets designated on such plat. The consent of the owners of the requisite number of front feet hereinbefore required to be attached to the petition for the vacation of a street shall be given in writing and duly acknowledged before an officer authorized to take acknowledgments, and such consent shall be attached to the petition for such vacation, and such petition and consent shall be filed with the Auditor. The Council shall, upon the presentation of such petition, and the filing of the proof of the due publication of the notice herein prescribed with the Auditor, fix a time for hearing said petition and objection thereto, if any be filed. At the time fixed by the Council for hearing said petition, and the objections filed thereto, if any, the Council shall ascertain and determine whether the consent of the owners of the requisite number of front feet has been obtained as aforesaid, and such finding shall be made a matter of record, and shall be conclusive of the facts as found in all collateral proceedings, and shall be prima facie evidence of the facts in all direct proceedings. If upon such hearing the Council shall find that the public interest would not be prejudiced by the vacation of such street, or part thereof, applied for, and that the consent of the owners of the requisite number of front feet has been obtained, as hereinbefore provided, the Council may grant the prayer of the petitioner in whole or in part, and may vacate the street sought to be vacated by such petition, and cause such vacation to be made a matter of record.

**Title to street vacated.**

Section 363. If upon the hearing of the petition for the vacation of such street, or part thereof, as in the preceding section provided for, the Council shall determine that such street should be vacated, and shall by ordinance vacate the same, such street shall be attached to the lots or ground bordering on such street, and all right and title thereto shall vest in the owners of the property on each side thereof in equal proportions. In every case where a street shall have been originally dedicated wholly by the owner or owners of the property abutting upon one side only of such street, then in the event of the vacation of such street all right and title thereto shall vest in the then owner or owners of the property abutting upon the side of the said street last aforesaid.

**Vacation of street to be by ordinance; record of same.**

Section 364. The vacation of any street by the Council shall only be made by ordinance, and a certified copy of such ordinance shall be filed for record, and duly recorded, in the office of the County Clerk of Multnomah County, and said County Clerk shall record the same in the records of deeds for said county and place an appropriate reference upon the margin of the original plat or plats of said street, or part thereof vacated, to indicate the book and page where such vacation is recorded.

### ARTICLE III.

**Establishment and Change of Grades.****Council empowered to establish and change grades.**

Section 365. All streets, avenues, boulevards, lanes, alleys and bicycle paths within the corporate limits of the City of Portland, now open or dedicated to public use, or which may hereafter be opened or dedicated to public use, or which have or may become such by prescription or user, shall be deemed and held to be open public streets, avenues, boulevards, lanes, alleys and bicycle paths for the purposes of this Charter, and the Council is hereby empowered to establish and change the grades of the same, and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in this Charter, in accordance with the directions and proceedings provided in this Charter.

**Same.**

Section 366. The Council is hereby authorized and empowered to establish by ordinance the grade of any street within the city when such grade has not been established, and may require from the City Engineer all maps and data it may deem necessary in relation thereto.

The Council is hereby authorized and empowered to change by ordinance the grade of any street within the City of Portland pursuant to the following provisions:

**Notice of resolution to change grade.**

Section 367. Whenever it shall be deemed expedient to change the grade of any street within the city, the Council shall pass a resolution declaring its intention to make such change of grade and describing the same. Said resolution shall be kept of record in the office of the Auditor and shall be published for ten consecutive publications in the city official newspaper. The City Engineer within three days from the first publication of said resolution shall cause to be posted in at least two places on the street or streets at points affected by such change of grade notices headed "Notice of Change of Grade" in letters not less than one inch in length, and shall in legible characters state that such a resolution has been passed by the Council, the date thereof, and briefly, the change of grade proposed, and the time within which written objection or remonstrance against the same may be made. The City Engineer shall file with the Auditor an affidavit of the posting of said notices, stating therein the date when and the places where the same have been posted.

**Remonstrance by property owners.**

Section 368. At any time before 20 days after the first publication of the resolution provided for in the preceding section, the owners of more than one-half of the property affected by such change of grade may make and file with the Auditor a written objection or remonstrance against the same, and said objection or remonstrance shall be a bar to any further proceedings thereto, for a period of six months, after which if the Council proposes to change such grade the same proceedings shall be had as in the first instance.

**Jurisdiction; when obtained.**

Section 369. If no such written objection or remonstrance be filed within the time designated, or if the Council finds that the written objection or remonstrance is not legally signed by the owners of more than one-half of the property affected by the proposed change of grade, the Council shall be deemed to have acquired jurisdiction to change by ordinance the grade as described in the resolution previously adopted.

**Damages for change of grade—how assessed.**

Section 370. When the grade of any street has once been established and any permanent building has been constructed on any lot abutting said street or affected by such change of grade, the owner or owners of any such permanent buildings, during the time designated for filing objections or remonstrances, may file with the Auditor a claim of damages by reason of such change of grade, and such claims shall describe the land upon which such buildings stand and an estimate of the value of said buildings and of the damages which such change of grade will cause to said building, and said claims and all statements contained therein shall be sworn to by the party or parties owning said buildings

and land or by their agents or legal representatives. Thereafter the Council shall appoint three disinterested freeholders of the city, having the same qualifications as viewers for the opening, laying out and establishing of streets, to estimate and determine the damages that will be sustained by the owners of buildings affected by said change of grade and to assess the benefits accruing to property benefited by such change of grade. The said viewers shall be appointed, and they shall qualify, and notices of their meeting and of the filing of their report shall all be done in the same manner as similar acts and proceedings are done in the opening, laying out and establishing of streets. The said viewers shall include as part of the benefits assessed the amount of their compensation for services, which shall be the sum of four dollars each for each day actually engaged in said service, but in no case shall the amount of said assessment of benefits exceed the actual benefit to the lot or parcel of land or other real property so assessed, deducting therefrom any damages or injuries to the same parcels which are less than said benefits, nor shall any damages be awarded for any building erected prior to the establishment of the grade which is proposed to be changed, and no award of damages to any person shall be greater than the amount claimed and sworn to by said person as hereinbefore provided, and if in the judgment of said viewers the whole amount of said damages and compensation of viewers shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report. The said viewers shall make a report of their findings of benefits and damages to the Council, and the same shall be heard, considered and adopted or set aside, and the assessment of benefits shall be levied, docketed and collected, and kept in a separate fund, and appeal from said report may be taken, and the findings of the jury in such cases shall be final and conclusive, all in the same manner and with the same effect as is provided in the matter of the opening, laying out, establishing and changing of streets. When such assessment is fully collected the Council, by ordinance, may change the grade of said street, and warrants shall be drawn upon the special fund so provided in favor of the persons entitled to damages.

#### Power of Council extended to boulevards, lanes, alleys, etc.

Section 371. The same power and authority granted by this act to the Council to open, lay out, establish, widen, alter, extend, vacate and close streets, and to establish and change the grade of streets within the limits of the City of Portland, and to appropriate and condemn private property therefor, are hereby granted to said Council to open, lay out, establish, widen, alter, extend, vacate and close within the same limits, boulevards, avenues, lanes, alleys, bridges, bicycle paths, squares, parks, plats and public places, and to appropriate and condemn private property therefor and to establish and change the grade of each. And like acts and proceedings as those authorized by this Charter to be done and had by said Council, the officers of the city, their agents and em-

ployees and others, in the matter of opening, laying out, establishing, altering, widening, extending, vacating and closing streets, and in establishing and changing the grades thereof, are hereby authorized to be done and had by said Council and officers and their agents and employees and others in the same manner and with the same effect and limitations in the matter of opening, laying out, establishing, widening, altering, extending, vacating or closing of boulevards, avenues, lanes, alleys, bridges, bicycle paths, squares, plats, parks and public places within said limits, and in establishing and changing the grades thereof, as by this Charter provided for in the case of streets.

#### The term "street" defined.

Section 372. The term "street," as used in this Chapter, shall be construed to mean any street, avenue, boulevard, alley or lane which is now, or may hereafter be, opened or dedicated to public use.

### ARTICLE IV.

#### Improvement of Streets.

##### Definition of terms "improve" and "improvement."

Section 373. The terms "improve" and "improvement," as used in this Chapter in reference to streets shall be construed to include all grading or regrading, paving or repaving, planking or replanking, macadamizing or remacadamizing, graveling or regraveling, and all manner of bridge-work and roadway improvement or repair and all manner of constructing sidewalks, crosswalks, gutters and curbs within any of the streets in the City of Portland, or any part of any such street.

##### Council may order improvement.

Section 374. The Council, whenever it may deem it expedient, is hereby authorized and empowered to order the whole or any part of the streets of the city to be improved, to determine the character, kind and extent of such improvement, to levy and collect an assessment upon all lots and parcels of land specially benefited by such improvements, to defray the whole or any portion of the cost and expense thereof, and to determine what lands are specially benefited by such improvement and the amount to which each parcel or tract of land is benefited.

##### City Engineer to make plans and specifications; districts; assessment.

Section 375. Whenever the Council shall deem it expedient or necessary to improve any street or any part thereof, it shall require from the City Engineer plans and specifications for an appropriate improvement and estimates of the work to be done and the probable cost thereof, and the City Engineer shall file such plans, specifications and estimates in the office of the Auditor. The improvement of each street, or part thereof, shall be made under a separate proceeding. If the Council shall find such plans, specifications and estimates to be satisfactory, it

shall approve the same, and shall determine the boundaries of the district benefited and to be assessed for such improvement, and the action of the Council in the creation of such assessment district shall be final and conclusive. The Council shall by resolution declare its purpose of making said improvement, describing the same, and including the City Engineer's estimate of the probable total cost thereof and also defining the boundaries of the assessment district to be benefited and assessed therefor. The action of the Council in declaring its intention to improve a street, directing publication of notice thereof, approving and adopting the plans, specifications and estimates of the City Engineer and determining the district benefited and to be assessed thereby may all be done in one and the same act.

#### **Publication of resolution; notices.**

Section 376. The resolution of the Council declaring its purpose to improve the street shall be kept of record in the office of the Auditor and shall be published for ten consecutive publications in the city official newspaper. The City Engineer within five days from the first publication of said resolution shall cause to be conspicuously posted at each end of the line of the contemplated improvement a notice headed "Notice of Street Work" in letters of not less than one inch in length, and said notice shall contain in legible characters a copy of the resolution of the Council and the date of its adoption, and the Engineer shall file with the Auditor an affidavit of the posting of said notices, stating therein the date when, and places where the same have been posted.

#### **Remonstrances.**

Section 377. Within twenty days from the date of the first publication of the notice required to be published in the preceding section, the owners of two-thirds or more in area of the property within such assessment district, may make and file with the Auditor a written objection or remonstrance against said proposed improvement, and said objection or remonstrance shall be a bar to any further proceedings in the making of said improvement for a period of six months, unless the owners of one-half or more of the property affected as aforesaid shall subsequently petition therefor.

#### **Jurisdiction of Council—when acquired.**

Section 378. If no such objection or remonstrance be made and filed with the Auditor within the time designated, or if any remonstrance filed is not legally signed by the owners of two-thirds of the property affected, the Council shall be deemed to have acquired jurisdiction to order the improvement to be made, and the Council may thereafter and within three months from the date of the final publication of its previous resolution by ordinance provide for making said improvement, which shall conform in all particulars to the plans and specifications previously adopted.

**Executive Board to make contract.**

Section 379. Upon the approval of said ordinance by the Mayor, or if the same shall become valid without his approval, the Auditor shall present to the Executive Board, at its next regular meeting, a copy of said ordinance, and the estimates, plans and specifications previously prepared by the City Engineer and adopted by the Council. Thereafter the said Executive Board, without delay, shall give notice by publication for not less than five successive days in the city official newspaper, inviting proposals for making said improvement. The Executive Board shall have the power to award the contract or contracts for said improvement and to impose such conditions upon bidders with regard to bonds and securities, and guarantees of the good faith and responsibility of bidders, for insuring the faithful completion of the work in strict accordance with the specifications therefor, and to make all rules and regulations in the letting of contracts that may be considered by said board as advantageous to the city. Such contract or contracts shall be let to the lowest responsible bidder for either the whole of said improvement or such part thereof as will not materially conflict with the completion of the remainder thereof, but said board shall have the right to reject any or all proposals received. It shall be the duty of the Executive Board to fix the time in which every such improvement shall be completed and it may extend such time should the circumstances warrant. The said board shall have power and authority to make all written contracts, to receive and approve all bonds authorized by this section, to provide for the proper inspection and supervision of all work done under the provisions of this Article, and to do any other act to secure the faithful carrying out of all contracts, and the making of improvements in strict compliance with the ordinances and specifications therefor.

**Notice of completion; acceptance.**

Section 380. Whenever any street improvement is completed in whole or in part to the satisfaction of the City Engineer, he shall file a certificate of the completion, and his approval of such work so completed, with the Auditor, who shall thereafter publish a notice of such completion for not less than five successive days in the city official newspaper, stating therein when the acceptance of the same will be considered by the Executive Board, and at that time or at any time prior thereto any owner of any interest in or the agent of any property within the assessment district of said improvement may appear and file objections to the acceptance of said improvement, and such objections shall be considered and the merits thereof determined by said board, and if it appear that said work or improvement has not been completed in accordance with the specifications and contract, the board shall require the same to be so completed before accepting it. Whenever any work or improvement is accepted, the Auditor shall endorse its approval on the certificate of the City Engineer, and after the assessment

therefor is made and docketed the Mayor and Auditor shall draw warrants on the fund created for said improvement and in favor of the parties entitled thereto.

#### Improvement by permit.

Section 381. Whenever the grade of any street has been established, the Council may authorize the owner or owners of any property thereon to cut down or fill up such street in front of such property according to such grade, under the direction of the City Engineer, at the expense of such owner or owners, but the authority mentioned in this section cannot be granted after notice has been given by the Council of intention to improve the street in front of such property. In giving such authority the Council may impose such terms and conditions thereon as may be necessary to secure the deposit of earth or other matter excavated from the street upon any part thereof which may need to be filled and to charge fees for said permits to cover any expense incurred by the city in the survey and inspection of the work to be done.

#### Kinds of improvements classified; street repairs.

Section 382. The Council shall have power and authority to classify the various kinds of street improvements or pavements between the curb lines of streets, and to determine the number of years for which each class of improvement shall be maintained by the city after the same has been made. The Council shall also have power and authority to determine the class of improvement which shall be made in each and every street within the city. The class of every street improvement ordered by the Council and the number of years for which it shall be maintained by the city shall be stated in each resolution and ordinance providing for a street improvement. When such improvement is made, the city, by and through its Executive Board, shall maintain and keep in repair all the roadway between the curb lines, except the portions which railroad or street railway companies are liable to maintain or keep in repair for the full number of years stated in the ordinance providing for their improvement, and the costs thereof shall be paid for out of the "Street Repair Fund." The Executive Board shall also have power and authority to contract for the maintenance and repair of all that part of any street which the city is liable to maintain or keep in repair for the full number of years for which the city is bound, at the same time that the contract for the street improvement is made, but every contract for street maintenance and repair shall be awarded in the same manner and subject to the same conditions, so far as applicable, as may be provided for the letting of contracts for street improvements; provided, that no contracts shall be made or entered into for such maintenance and repair of streets which shall bind the city during any one year for any sum of money in excess of the revenues of the Street Repair Fund for said year.

**Council's power; street surfaces.**

Section 383. The Council shall have power and authority in providing for any street improvement requiring a concrete foundation also to provide for placing in the street where said improvement is to be made, all necessary service pipes for water, gas, heat, power, sewerage or any other purpose, and all conduits for electric wires or other purposes, that are or may thereafter be necessary.

The Council may also provide a certain time after any street improvement is made during which it shall not be torn up or disturbed. The Council shall also have power and authority to provide that no opening of any street surface shall be made without first obtaining a permit therefor. Subject to the ordinances of the Council, the Executive Board shall have power to prescribe and enforce all rules regulating the opening of street surfaces in all streets of the city, which it may deem necessary, to secure the replacing of the street in good condition.

**ARTICLE V.****Sidewalks.****Owners to repair sidewalks; notice thereof.**

Section 384. It is hereby made the duty of all owners of land adjoining any street in the City of Portland to construct, reconstruct and maintain in good repair the sidewalks in front of said lands. The Council shall have power and authority to determine the grade and width of all sidewalks, the material to be used and the specifications for the construction thereof upon any street or part thereof or within any district in said city. If the owner of any lot or part thereof, or parcel of land, shall suffer any sidewalk along the same to become out of repair, it shall be the duty of the City Engineer to post a notice on the adjacent property, headed "Notice to Repair Sidewalk," in letters not less than one inch in length, and said notice shall in legible characters direct the owner, agent or occupant of said property immediately to repair the same in a good and substantial manner, and the City Engineer shall file with the Auditor an affidavit of the posting of such notice, stating the date when and the place where the same was posted. The Auditor shall upon receiving the affidavits of the City Engineer send by mail a notice to repair said sidewalk to the owner (if known) of such property, or to the agent (if known) of the owner, and directed to the postoffice address of such owner or agent, when such postoffice address is known to the Auditor, and if such postoffice address be unknown to the Auditor, such notice shall be directed to such owner or agent at Portland, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of such property shall not render void said notice, but in such case the posted notice shall be sufficient.

**Permit for sidewalk repairs.**

Section 385. The owner, agent or occupant before making said re-

pairs shall obtain from the City Engineer a permit so to do, which shall prescribe the kind of repair to be made, the material to be used and specifications therefor, and the owner, agent or occupant shall make said repairs within twenty days from the date of posting said notice. If the owner, agent or occupant of any such lot or part thereof or parcel of land shall fail, neglect or refuse to make the sidewalk repairs within the time designated, the City Engineer shall make the same, and keep an accurate account of the cost of the labor and materials in making the repairs in front of each lot or parcel of land, and shall report monthly to the Executive Board the cost of such repairs, and a description of the lot or part thereof or parcel of land fronting on the sidewalk upon which such repairs are made.

**Executive Board authority over sidewalks; assessment for sidewalk repairs.**

Section 386. The Executive Board shall exercise the same general authority and supervision over sidewalk repairs that it shall have in the matter of street improvements; it shall inspect the reports of sidewalk repairs and the cost thereof made by the City Engineer, and if it deems the same to be reasonable it shall approve the same and transmit them to the Council. The Council shall at least once each year by ordinance assess upon each of the lots or parts thereof or parcels of land fronting upon sidewalks which have been so repaired the cost of making such repairs as approved by the Executive Board and ten per cent. additional to defray the cost of notice, engineering and advertising. In each case all such assessments may be combined in one assessment roll and the same shall be entered on the Docket of City Liens and collected in the same manner as is provided for special assessments for street improvements.

**Advances from Street Repair Fund.**

Section 387. Moneys to repair sidewalks when the repair shall be made by the City Engineer under this Charter, may, at the discretion of the Council, be advanced from the Street Repair Fund to be reimbursed by the special assessment when collected.

**Damages for negligence.**

Section 388. It is not only the duty of all owners of land within the city to keep in repair all sidewalks, constructed or existing in front of, along or abutting upon their respective lots or parts thereof and parcels of land, but such owners are hereby declared to be liable for all damages to whomsoever resulting, arising from their fault or negligence in failing to put any such sidewalk in repair, after the owner or agent thereof has been notified as provided in this Charter so to do; and no action shall be maintained against the City of Portland by any person injured through or by means of any defect in any sidewalk.

## ARTICLE VI.

## Sewers and Drains.

**Council may order construction of sewers.**

Section 389. The Council is hereby authorized and empowered whenever it may deem that the public health, interest or convenience may require, to order to be constructed and laid all sewers and drains, with all necessary man-holes, lamp-holes, catch-basins and branches, and to repair or re-lay the same, and to levy and collect an assessment upon all lots and parcels of land specially benefited by such sewers and drains, to defray the whole or any portion of the cost and expense thereof, and to determine what lands are specially benefited by such sewer and the amounts to which each lot or parcel of land is benefited.

**City Engineer to make plans and specifications; districts; assessment.**

Section 390. Whenever the Council shall deem it expedient or necessary to construct or re-lay any sewer or drain, it shall require from the City Engineer plans and specifications for an appropriate sewer or drain, with all necessary catch-basins, man-holes, lamp-holes and branches, and estimates of the work to be done and the probable cost thereof, and the City Engineer shall file such plans, specifications and estimates in the office of the Auditor. If the Council shall find said specifications, plans and estimates to be satisfactory it shall approve the same, and shall determine the boundaries of the district benefited and to be assessed for such sewer or drain, and the action of the Council in the creation of such assessment district shall be final and conclusive. The Council shall by resolution declare its purpose to construct said sewer or drain, describing the same and the location thereof, and including the City Engineer's estimate of the probable total cost thereof, and also defining the boundaries of the assessment district to be benefited and assessed therefor. The action of the Council in declaring its intention to construct or re-lay a sewer or drain, directing publication of notice thereof, approving and adopting the plans, specifications and estimates of the City Engineer and determining the district benefited thereby to be assessed therefor, may all be done in one and the same resolution.

**Publication of resolution; notices.**

Section 391. The resolution of the Council declaring its purpose to construct or re-lay such sewer or drain shall be kept of record in the office of the Auditor and shall be published for ten consecutive publications, excluding Sundays, in the city official newspaper. The City Engineer within five days from the first publication of said resolution shall cause to be posted conspicuously on the street or streets along the line of the contemplated sewer or drain, at least two notices headed "Notice of Sewer Work," in letters not less than one inch in length, and said notices shall contain in legible characters a copy of the resolution of

the Council and the date of its passage, and the City Engineer shall file with the Auditor an affidavit of the posting of such notices, stating therein the date when, and places where, the same have been posted.

#### **Remonstrances.**

Section 392. Within twenty days from the date of the first publication of the notice required to be published in the preceding section, the owner or owners of any property within the assessment district may file with the Auditor a written remonstrance against said proposed sewer, and the Council upon hearing said remonstrance, may, at its discretion, discontinue proceedings in said matter, but the Council may overrule any and all remonstrances, and shall have power and authority to order the construction of said sewer or drain, or the repair or relaying of the same, and within three months from the date of the final publication of its previous resolution, may by ordinance provide for the same, which shall substantially conform to the plans and specifications previously adopted.

#### **Executive Board to make contracts.**

Section 393. Upon the approval of said ordinance by the Mayor, or if the same shall become valid without his approval, the Auditor shall present to the Executive Board, at its next regular meeting, a copy of said ordinance and the plans, specifications and estimates previously prepared by the City Engineer and adopted by the Council, and thereafter the Executive Board shall exercise the same power, authority and supervision in the advertisement for bids, awarding contracts, the requiring of bonds, supervising and accepting the work as is delegated to said board in the matter of street improvements.

### **ARTICLE VII.**

#### **Special Assessments.**

#### **Estimate of cost and apportionment; notice.**

Section 394. Whenever any street improvement or the construction, reconstruction or repair of any sewer, any part of the cost of which is to be assessed upon the property benefited thereby, is completed in whole, or in such part that the cost of the whole can be determined, the City Engineer shall certify to the Auditor the accuracy of the original estimate of the work to be done, or if in the progress of the work it has been found necessary to make any alteration in said estimated work for any cause whatsoever, the City Engineer shall file a corrected estimate in detail of such work, and the Auditor shall apportion the cost thereof (except the share to be paid in the case of street improvements by railroad or street railway companies, by reason of their use of the streets), upon the lots, parts of lots and parcels of land benefited thereby and within the assessment district. The contract price based upon the estimate of the City Engineer, the costs of rights of way and expenses of condemning land and a sum not to exceed five per cent. of

the contract price as the cost of advertising, engineering and superintendence, shall be deemed to be the cost of every sewer or street improvement. When the Auditor has ascertained what he may deem a just apportionment of said cost, in accordance with the special and peculiar benefits derived by each lot or part thereof and parcel of land, the same shall be a proposed assessment, and the Auditor shall give notice of the same by publication for five consecutive insertions in the city official newspaper, therein specifying the whole cost of such improvement or sewer and the share so apportioned to each lot or part of a lot or parcel of land, and the name of the owner thereof, if known to the Auditor, and stating any objections to such apportionment that may be made in writing to the Council and filed with the Auditor within fifteen days from the first publication of such notice will be heard and determined by the Council before the passage of any ordinance assessing the cost of said improvement or sewer.

It shall also be the duty of the Auditor, forthwith, to send by mail, postpaid, a notice of the share so apportioned to each lot or part thereof or parcel of land, stating the time within which objections to such apportionment may be made in writing to the Council and filed with the Auditor, to the owner (if known) of each lot or part thereof or parcel of land, or to the agent of such owner, directed to the postoffice address of such owner or agent, when such postoffice address is known to him, and if such postoffice address be unknown to him, then such notice shall be directed to such owner or agent, at Portland, Oregon.

#### **Assessment of benefits and damages.**

Section 395. After the time specified in said notice has elapsed the Council shall consider said proposed assessment and all objections made thereto, and shall have the power, at its discretion and without any further notice, to consider, ascertain and determine the amount of the special and peculiar benefits accruing to each lot or part thereof or parcel of land so assessed, by reason of the construction, reconstruction, or repair of said sewer or of the improvement of said street or part thereof, and if the amount apportioned by the Auditor to any lot or part thereof or parcel of land shall not be in just proportion to such benefits, the assessment against such lot or part thereof or parcel of land shall be so reduced or increased by the Council that it shall be in just proportion to such benefits, but in no case shall any such assessment exceed such benefits. The Council shall then declare said assessment by ordinance.

#### **Assessments confirmed.**

Section 396. Each lot or part thereof or parcel of land shall be deemed to be benefited by the sewer construction, reconstruction or repair or street improvement, as the case may be, to the full amount of the assessment levied thereon.

**Mistakes in proceedings.**

Section 397. No such assessment shall be held invalid by reason of failure to enter the name of the owner of any lot or part of a lot or parcel of land so assessed or by a mistake in the name of the owner, or the entry of a name other than the name of the owner, in said assessment, or in any acts or proceedings connected therewith, and no delays, mistakes, errors, or irregularities in any act or proceeding in the improvement of a street or the construction of a sewer or drain shall prejudice or invalidate any final assessment, but the same may be remedied by subsequent and amended acts or proceedings.

**Assessment for deficit.**

Section 398. If, upon the completion of any improvement of a street or construction of a sewer, it is found that the sum assessed therefor is insufficient to defray the cost thereof and the amount charged to any lot or part thereof or tract of land is less than the benefits accruing thereto, the Council must ascertain the deficit and by ordinance re-assess the land so benefited in excess of the original assessment. When the assessment for said deficit is so levied the Auditor must enter the same in the Docket of City Liens in a column reserved for that purpose in the original entry, with the date thereof, and such deficit shall thereafter be a lien upon such lot or part thereof, or parcel of land, in like manner and with like effect as in case of the sum originally assessed, and shall also be payable and may be collected in like manner and with like effect as the original assessment.

**Surplus.**

Section 399. If, upon the completion of any improvement of a street or construction of a sewer, it is found that the sum assessed upon any lot or part thereof, or parcel of land, is more than the amount properly chargeable thereto, the Council must ascertain and declare the surplus in like manner as in the case of a deficit; when so declared it must be entered as in case of a deficit in the Docket of City Liens. Thereafter the person who paid such surplus, or his legal representative, heirs or assigns, is entitled to repayment of the same by warrant on the city treasury, payable out of the fund raised for such improvement.

**Reassessment.**

Section 400. Whenever an assessment for the opening, altering or grading of any street, or construction, reconstruction or repair of any sewer, or for any local improvement which has been or may hereafter be made by the city, has been or shall hereafter be set aside, annulled, declared or rendered void, or its enforcement refused by any court of this state, or any Federal Court, having jurisdiction therein, whether directly or by virtue of any decision of such court, or when the Council shall be in doubt as to the validity of such assessment or any part

thereof, the Council may, by ordinance, make a new assessment or re-assessment upon the lots, blocks or parcels of land which have been benefited by such improvement to the extent of their respective and proportionate shares of the full value thereof. Such re-assessment shall be based upon the special and peculiar benefit of such improvement, to the respective parcels of land assessed, at the time of its original making, but shall not exceed the amount of such original assessment. Interest thereon from the date of delinquency of the original assessment may be added at the discretion of the Council. Such re-assessment shall be made in an equitable manner, as nearly as may be in accordance with the law in force at the time it is made. But the Council may adopt a different plan of apportionment of benefits when in its judgment essential to secure an equitable assessment. The proceedings required by this Charter to be had prior to the making of the original assessment shall not be required to be taken or had within the intent of this section. Such re-assessment shall be made and shall become a charge upon the property upon which the same is laid, notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of this Charter connected with or relating to such improvement and assessment and notwithstanding the proceedings of the Council, Executive Board, Board of Public Works, or any officer, contractor or other person connected with such work may have been irregular or defective, whether such irregularity be jurisdictional or otherwise. Such re-assessment shall not be made in case of a street improvement wherein a remonstrance sufficient in law to defeat the same shall have been filed. The Council shall by resolution declare the district that will be benefited by the improvement for which the re-assessment is made and shall direct the Auditor or City Engineer to prepare a preliminary assessment upon the property included therein within a time to be fixed by said resolution. Upon the passage of such resolution the Auditor shall, as soon thereafter as such re-assessment is prepared, give notice by ten successive publications in the city official newspaper that such assessment is on file in his office, giving the date of the passage of the resolution directing the making of the same and the time at which the Council will hear and consider objections to said assessment by parties aggrieved thereby, and warning such persons not to depart until such re-assessment has been completed. The Auditor shall forthwith mail to the owner of each lot or part thereof or tract of land affected by such assessment, or to his agent, if the postoffice address of either be known to the Auditor, a notice of such assessment; and if such postoffice address be unknown, then such notice shall be directed to such owners or agent at Portland, Oregon. The owner or owners of any property which is assessed on such assessment, or any person having an interest therein, may within ten days from the last publication herein provided, file with the Auditor their objections in writing to such assessment. At the time appointed in such notice the Council shall hear and determine all objections which

have been filed by any party interested. The Council shall have power to adjourn such hearing from time to time and shall have the power, in its discretion, to revise and correct, or to set aside and order the remaking of such assessment, and shall pass an ordinance approving and confirming such re-assessment as corrected and remade by it, and such decision shall be a final determination of the regularity, validity and correctness of the re-assessment, except as herein otherwise provided. When said re-assessment is completed and confirmed it shall be entered in the Docket of City Liens and shall be enforced and collected in the same manner that other assessments for local improvements are enforced and collected under this Charter and the laws governing the city. All sums paid upon the former assessment shall be credited to the property on account of which the same were paid, as of the date of such payment. And when it has been attempted to sell property for any assessment and such sale is found or declared void, upon the making of the re-assessment the property shall be resold and the proceeds of such sale shall be paid to the purchaser at the former void sale or his assigns. But no proceedings shall be instituted for such re-assessment unless within ten years of the passage of the resolution of intention for the making of the original work, improvement or repair.

#### Appeal therefrom.

Section 401. Any person who has filed objections to such new assessment or re-assessment which have not been satisfied by the amendments made by the Council may appeal to the Circuit Court of the State of Oregon for the County of Multnomah from the assessment against any property owned by him, or in which he has an interest. An appeal shall be taken by serving notice of appeal within twenty days from the passage of the ordinance adopting the assessment as amended, upon the Mayor, Auditor or City Attorney, and filing the same, with the proof of service, together with an undertaking with one or more sureties, who shall have the qualifications of sureties on appeal from the Circuit Court to the Supreme Court, and if excepted to shall justify in like manner, conditioned that such appellant will pay all costs and disbursements that may be awarded against him on appeal, not exceeding five hundred dollars. Such bond and notice of appeal shall be filed within twenty days from the service of such notice in the office of the Clerk of said Circuit Court, together with a copy of the re-assessment, so far as the same affects the property of the appellant. Any number of persons may join in such appeal, and the only question to be determined therein shall be the amount of special benefits equitably to be assessed against the property of each person joining in said appeal. The jury shall view the property assessed, and its verdict shall be a final and conclusive determination of the question. On such appeal the fact that one called as a juror is a taxpayer of the City of Portland shall not disqualify him from acting as such juror. The city shall be considered the plaintiff and such appeal shall be conducted and be heard

and determined as far as practicable in the same manner as an action at law.

#### Judgment; cost and fees.

Section 402. If the amount assessed by the jury against any appellant be not less than that fixed in the assessment appealed from, the judgment, in addition to declaring the assessment found, shall be entered against such appellant and his sureties for his proportion of the costs of such appeal. The same fees and costs shall be taxed and paid upon such appeal as are allowed in other actions.

#### Proceedings under previous curative clause.

Section 403. No actions, suits or proceedings pending at the time of the enactment of this Charter, brought or depending upon section 156 of "An act to Incorporate the City of Portland and to Provide a Charter therefor and to Repeal all Acts or parts of Acts in Conflict therewith," filed in the office of the Secretary of State, October 17, 1898, shall be in anywise affected by the repeal of said section, or its omission from this Charter, but said section shall be deemed still in effect as to such actions, suits or proceedings so pending until the final determination thereof.

#### Proceedings presumed regular.

Section 404. In any action, suit or proceeding in any court concerning any assessment of property or levy of taxes authorized by this Charter, or the collection of such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith shall be presumed to be regular and to have been duly done or taken until the contrary is shown.

#### Docketing and publication of assessment.

Section 405. When an assessment has been declared by ordinance it shall be the duty of the Auditor to enter a statement of said assessment in the Docket of City Liens, to furnish a copy of said assessment to the City Treasurer, and to publish said assessment for five consecutive insertions in the city official newspaper, and to send by mail to each person whose property is assessed or to his agent a notice of said assessment, when the postoffice address of such person or his agent is known to the Auditor, and if such postoffice address be unknown to the Auditor, such notice shall be directed to such person or agent at Portland, Oregon.

#### Docket of City Liens.

Section 406. The Docket of City Liens is a book in which must be entered the following matter in relation to special assessments for local improvements: The date of the entry, the number or letter of each

lot assessed and the number or the letter of the block of which it is a part, and a description of each unplatted tract or parcel of land, the sum assessed upon each lot or part thereof, or tract of land, and the name of the owner, or that the owner is unknown; provided, that failure to enter the name of the owner or mistake in the name of the owner, or the entry of a name other than that of the true owner in such lien docket, shall not render void any assessment, nor in any way affect the lien of the City of Portland on the property described in such lien docket.

#### **Lien of assessment; payment.**

Section 407. The Docket of City Liens is a public writing, and from the date of the entry therein of an assessment the sum as entered is hereby declared to be a tax levied and a lien upon such lot, part thereof, or tract of land, which lien shall have priority over all other liens and incumbrances whatsoever thereon, and the sum or sums of money assessed for any local improvement, entered upon such lien docket, shall be due and payable from the date of such entry, and if not paid, or bonded as provided by law, within ten days from the date of such entry, thereafter the same shall be deemed to be delinquent and shall bear interest at the legal rate.

#### **Payment by lien creditor.**

Section 408. When an assessment upon any lot or part thereof becomes delinquent, any person having a lien thereon by judgment, decree or mortgage, or having purchased the same for any delinquent tax or assessment, may at any time before the sale of such lot or part thereof, pay the same, and such payment discharges the property from the effect of the assessment, and the amount of such delinquent taxes and all accruing costs and charges, if any, when so paid, is thereafter to be deemed a part of such lien creditor's judgment, decree, mortgage or tax lien, as the case may be, and shall bear interest and may be enforced and collected as a part thereof.

If the holder of any tax lien or claim pays off such assessment he may thereafter present the receipt to the officer who shall have charge of the tax roll or docket containing the record of the tax sale at which he purchased such property, and thereupon such officer shall make a note of the amount of such assessment so paid by such purchaser, and shall exact repayment thereof, together with interest as above prescribed, from any person making redemption from such sale, and no redemption shall discharge the property from the effect of such sale which shall not include the amount of such assessment paid by the purchaser after the purchaser shall have presented the receipt as above prescribed.

#### **Owner—what is.**

Section 409. Whenever any lot or part thereof, or tract of land is

sold for a delinquent assessment for a street improvement, and afterwards sold for a deficit in such assessment, as in this Charter provided, to any person other than the purchaser at the first sale, or his successor in interest, said purchaser at such first sale is to be deemed an owner within the meaning of this Charter.

#### Assessment—where paid.

Section 410. All such assessments shall be paid to the Treasurer, who shall file duplicate receipts therefor with the Auditor, and the Treasurer shall keep all money collected upon each assessment in a separate fund, and the same shall not be used for any purpose other than that for which it is levied and collected.

#### Delinquents.

Section 411. If within thirty days from the date of the entry of an assessment in the Docket of City Liens, the sum assessed upon any lot or part thereof or tract of land is not wholly paid to the Treasurer, and a duplicate receipt filed therefor with the Auditor or bonded as provided by law, the Auditor shall thereafter prepare and transmit to the Treasurer a list in tabular form, made up from the Docket of City Liens, describing each assessment which is delinquent, the name of the person to whom assessed, and a particular description of the property, the amount of the assessment due, and other facts necessary to be given.

#### Sale for unpaid assessments.

Section 412. The Treasurer shall thereupon proceed to collect the unpaid assessments named in such list by advertising and selling to the highest bidder such lots or tracts, in the manner now provided by law for the sale of real property on execution, except as herein otherwise provided. Each piece or tract of land shall be sold separately and for a sum not less than the unpaid assessment thereon and the interest and cost of advertising and sale; and where there shall be more than one bid the land shall be sold to the bidder offering to take the same for the least amount of penalty and interest. Competition shall be first upon the penalty for the first period, second on penalty for succeeding periods, third upon the rate of interest. A sale of real property under the provisions of this Charter conveys to the purchaser, subject to redemption as herein provided, all estates, interests, liens or claims therein or thereto of any person or persons whomsoever, together with all rights and appurtenances thereunto belonging. No levy upon such lots or parcels of land shall be required, except that a notice shall be posted four weeks before such sale, upon every lot or parcel assessed to an unknown owner.

#### Receipts of Treasurer.

Section 413. The Treasurer shall enter in columns provided for that purpose in the list transmitted to him by the Auditor, the date of

the sale, the name of the purchaser, the amount paid for each parcel of property sold. The Treasurer shall give a receipt to each person paying an assessment on said delinquent list prior to the sale thereof, and such receipt must state separately the assessment, interest and costs collected, and a duplicate of said receipt shall be filed with the Auditor.

#### **Payments in lawful money.**

Section 414. Real property when sold for, or to satisfy a delinquent assessment or tax, must be sold for lawful money of the United States, and not otherwise; and any one applying or seeking to redeem property so sold as in this Charter provided, must pay or offer to pay the sum necessary in such lawful money, and not otherwise.

#### **Certificate of sale.**

Section 415. The Treasurer shall immediately after having sold any real property upon such list, make and deliver to the purchaser a certificate of sale of the property so sold, setting forth therein the object for which the sale was made, a description of the property sold, a statement of the amount it sold for, the improvement for which the assessment was made, the year in which the tax was levied, the amount of such tax or assessment, the name of the purchaser, and that the sale is made subject to redemption within three years from the date of the certificate, and then deliver such certificate to the purchaser.

#### **Treasurer's return; unsold property.**

Section 416. The Treasurer shall within three days after sale return to the Auditor the said delinquent list with all collections and sales noted thereon, and the Auditor shall thereupon make proper entries thereof in the Docket of City Liens. Thereafter no transfer or assignment of any certificate of purchase of real property sold under the provisions of this Charter shall be deemed valid unless an entry of such transfer or assignment shall have been noted by the Auditor in said lien docket. In case any property shall remain unsold upon such sale, the same may be again, at the discretion of the Auditor, offered for sale in like manner, but not sooner than three months after the expiration of any sale, except that in the matter of an assessment for the opening, widening, laying out or establishing of a street, proceedings for such sale may be taken immediately.

#### **Redemption.**

Section 417. The owner, or his legal representatives, or his successor in interest, or any person having a lien by judgment, decree or mortgage, or owner of a tax lien, on any property so sold may redeem the same upon the conditions provided as follows:

Redemption of any real property sold for a delinquent assessment under the provisions of this Charter may be made by paying to the

Auditor at any time within three years from the date of the certificate of sale the purchase price and ten per cent. thereof as penalty, and interest on the purchase price at the rate of ten per cent. per annum, from the date of such certificate. Where redemption shall be made by the holder of a tax lien he shall have the right to have such redemption noted upon the record of his lien in like manner and with like effect as hereinafter prescribed. Provided, however, that if redemption be made within three months from the date of sale, the penalty to be paid shall be five per cent. Such redemption shall discharge the property so sold from the effect of such sale and, if made by a lien creditor, the amount paid for the redemption shall thereafter be deemed a part of his judgment, decree, mortgage or tax lien, as the case may be, and shall bear like interest, and may be enforced and collected as a part thereof.

#### Deed; effect thereof.

Section 418. After the expiration of three years from the date of such certificate, if no redemption shall have been made, the Treasurer shall execute to the purchaser, his heirs or assigns, a deed of conveyance, containing a description of the property sold, the date of the sale, a statement of the amount bid, of the improvement for which the assessment was made, of the year in which the assessment was levied, that the assessment or tax was unpaid at the time of sale, and that no redemption has been made, and need contain no further recital of the proceedings prior to the sale. And the effect of such deed shall be to convey to the grantee therein named the legal and equitable title in fee simple to the real property in such deed described. And such deed shall be *prima facie* evidence of title in such grantee, and that all proceedings and acts necessary to make such deed in all respects good and valid have been had and done, and such *prima facie* evidence shall not be disputed, overcome or rebutted, or the effect thereof avoided, except by satisfactory proof of either—

1. Fraud in making the assessment, or in the assessment or collection of the tax.
2. Payment of the assessment or tax before sale, or redemption after sale.
3. That payment or redemption was prevented by fraud of the purchaser, or
4. That the property was sold for an assessment or tax for which neither said property nor the owner thereof, at the time of sale, was liable, and that no part of the assessment or tax was assessed or levied upon the property sold.

#### Limitation of actions thereon; tender of tax.

Section 419. Every action, suit or proceeding which may be com-

menced for the recovery of land which shall have been sold by the Chief of Police or by the City Treasurer of said city, or by the Chief of Police of the late City of Albina, Oregon, or by the City Marshal of the late City of East Portland, Oregon, for any assessment or tax, or to quiet the title of the former owner, or his successors in interest against such sale, or to set aside such sale, or to remove the cloud thereof, except in cases where the assessment or tax for which the land has been sold was paid before the sale, or the land redeemed as provided by law, shall be commeneed within three years from the time of recording the deed execuated by the Chief of Police or by the City Treasurer or Marshal, and not thereafter. And in any such action, suit or proceeding, whether before or after the issuance of the deed, the party claiming to be the owner as against the party claiming under such sale, must tender with his first pleading in such case and pay into court at the time of filing such pleading the amount of the purchase price for which the lands were sold by the Chief of Police or City Treasurer or Marshal, together with the penalties prescribed by law at the time of such sale, and of all taxes and assessments levied or made upon or against the land, or any part thereof, which shall have been paid after such sale by the purchaser at such sale, or his heirs or assigns, together with interest thereon at the rate of ten per cent. per annum from the respective times of the payment of such purchase price, taxes and assessments by said purchaser, or his heirs or assigns, as the case may be, up to the time of the filing of such pleading to be paid to such purchaser, his heirs or assigns, in case the right or title of such purchaser at such sale shall fail in such action, suit or proceeding.

#### Notices—failure in not fatal.

Section 420. No record need be kept of the mailing of any notice in this Chapter prescribed, and the failure to mail or a mistake in the mailing of, or a mistake in, any such notice shall not be fatal when notice is posted or published as herein required.

#### Liability of the city and its officers for expense of street work.

Section 421. Neither the City of Portland nor any officer thereof shall be liable for any portion of the cost or expense of any street work or improvement, or the construction or repair of any sewer or drain, which is assessed upon the property benefited thereby, by reason of the inability of the City of Portland to collect assessments levied for the payment of such work, improvement, sewer or drain, but the contractors doing such work shall be required to rely solely upon the fund acerning from the property benefited, assessed and liable therefor; and the said contractor shall not require nor compel the City of Portland by any legal process or otherwise to pay the same out of any other fund, except in cases where for any reason such assessment shall be invalid.

## ARTICLE VIII.

### Miscellaneous Street Provisions.

#### County roads in city limits; relinquishment for improvement to county.

Section 422. All county roads lying within the limits of the City of Portland, which have not been laid out or accepted as streets by the authority of said city, shall remain and be county roads until they shall be laid out or accepted by said authorities as streets, and be under the jurisdiction of the County Court of Multnomah County, Oregon, and shall be worked, maintained and improved as county roads outside the limits of said city are worked, maintained and improved.

The Council may by resolution, upon order of the County Court signifying its willingness to accept the same, relinquish, for the purpose of working or improving the same, to the county, control of all that part between curb lines of any street connecting with the county road. Thereupon such street shall, to that extent, be under the control of the County Court and shall be worked and improved in like manner as county roads until such time as the County Court relinquishes jurisdiction of the street.

#### Pending proceedings; how proceeded with.

Section 423. Nothing in this Charter shall affect in any way the validity of any proceedings pending at the time that it shall take effect for the opening, widening, laying out or establishing of any street, or for the change or establishing of any grade thereon, or making any kind of a street improvement, or for the construction of any drain or sewer, and the levy and collection of assessments therefor, but such proceedings that shall have been taken shall be deemed to be regularly and legally taken and all such proceedings thereafter, of whatever nature, shall be proceeded with and enforced in accordance with and by virtue of the provisions of this Charter.

## CHAPTER VII.

### General Provisions.

#### General Park act not to apply.

Section 424. The act of the Legislative Assembly of the State of Oregon entitled "An Act to provide for Park Commissioners and the acquisition of land for parks and the management thereof, approved February 17, 1899," shall not nor shall any of its provisions apply to the City of Portland incorporated under this act.

#### Bonding Act to apply.

Section 425. The act of the Legislative Assembly of the State of Oregon entitled "An Act to provide for the issuance of bonds for the improvement of streets and laying of sewers in incorporated cities and

for the payment of the costs of such improvements, and the laying of sewers by installments," filed in the office of the Secretary of State February 22, 1893, and its amendments, is not in any way or degree affected hereby, and said act and its amendments shall apply and be in force in the City of Portland hereby incorporated.

**Repealing clause.**

Section 426. The act entitled "An Act to incorporate the City of Portland and to provide a Charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State October 17, 1898, and all acts and parts of acts in conflict with this Charter are hereby repealed.





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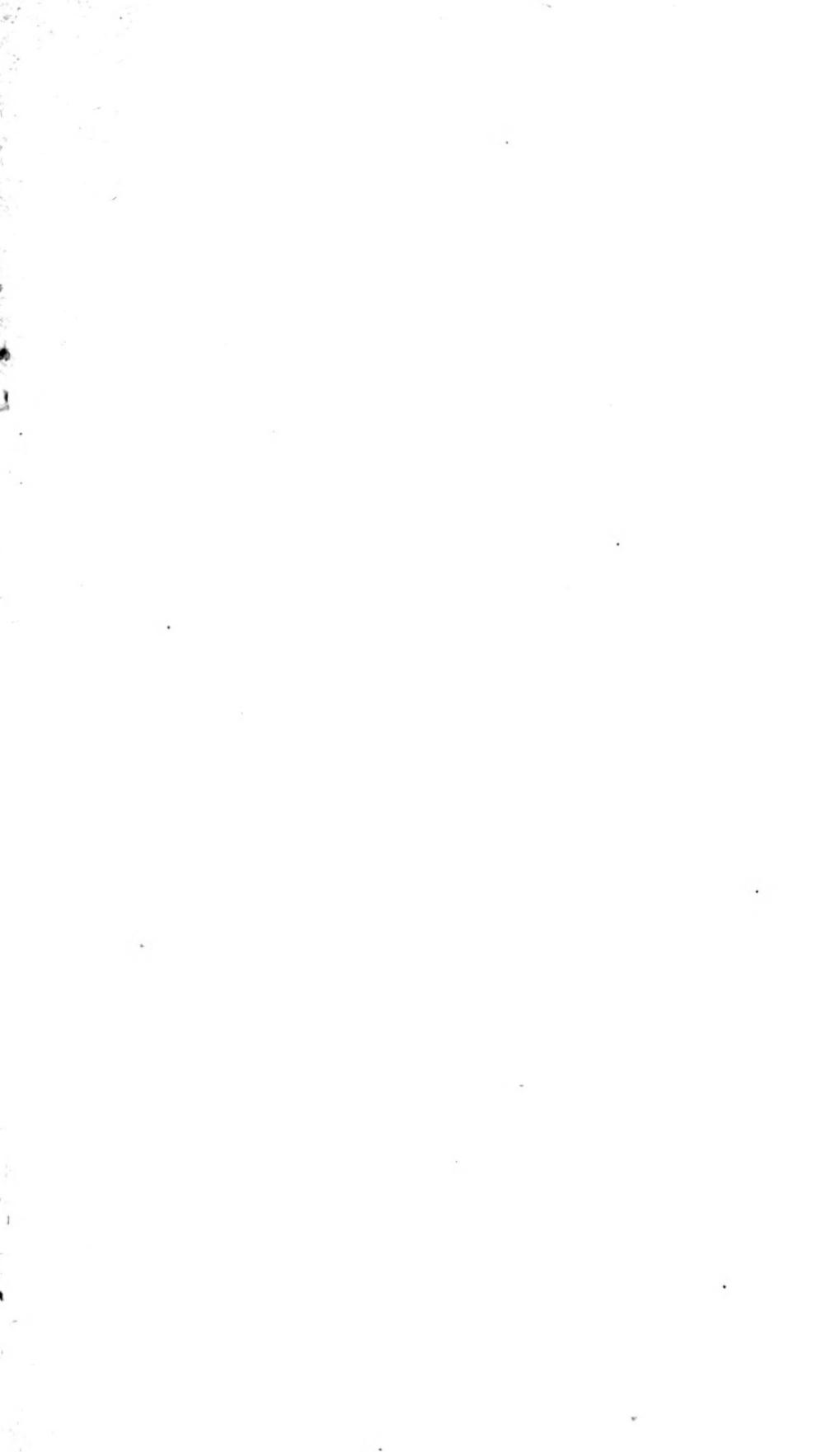
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